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**How Is Human Trafficking Regulated in the UK?**  
**A Critical Examination of the UK's Anti-Trafficking Response**

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Presented for the Degree of Doctor of Philosophy

The University of Edinburgh

2020

## Abstract

Over the last decade, jurisdictions across the UK have paid increased attention to the problem of human trafficking, as exemplified by the enactment of new specialised legislation (reserved and devolved), the increase in criminal justice and border control efforts, as well as the adoption of the UK-wide National Referral Mechanism ('NRM'), based on the system designed by the Organisation for Security and Co-operation in Europe ('OSCE'), to identify and deal with potential victims of human trafficking, perpetrators and their respective cases. This Mechanism, along with the UK's wider approach to human trafficking, have been criticised by NGOs and scholars for various reasons, such as poor identification skills of those officials who first come into contact with victims (known as first responders), lack of sufficient support and benefits to victims, as well as inequalities in decision outcomes between UK/EU and non-UK/EU victims, leading to governmental reviews and planned reforms. Despite efforts to understand and tackle the issues of the NRM by NGOs, researchers and policy makers, there has been limited attention paid by commentators to the policy context in which the NRM has been implemented and what this might reveal about the aforementioned problems of the Mechanism. In addition, efforts to examine human trafficking, arguably, have failed to fully capture all its angles and in particular to understand its *tripartite nature*: the victims' rights/needs aspect of it, the traffickers' side, as well as the state side (origin, destination and transit states) and particularly how a destination state regulates trafficking in relation to broader overarching issues affecting trafficking, meaning mainly immigration.

Through documentary analysis of the main policies on human trafficking issued by the UK government at Westminster and the devolved governments, which constitute the NRM's foundations and context, a series of qualitative interviews with professionals involved in UK's anti-trafficking efforts and a case study of a female domestic survivor trafficked for sexual exploitation, this thesis offers a critical examination of how the UK regulates human trafficking, focusing on adult trafficking victims. Building on a theoretical framework, which draws on Christie's notion of ideal victims and offenders and Sharapov's examination of the images of trafficking victims and perpetrators in early-2010s UK policies, the thesis highlights how the dominant narrative of UK policies still tends to revolve around the *idealisation* of trafficking victims and *demonisation* of traffickers, often not paying respect to the full spectrum of human trafficking as underlined by literature, while promoting unrealistic goals, such as total trafficking elimination, primarily aiming to the UK's *heroification* as a leading anti-slavery force. Still, a

slowly growing tendency to start focusing on a wider range of trafficking cases, on the range of victims based on varying levels of consent or trafficking experiences, the range of traffickers based on varying levels of organisation and the frequent fluidity between victims-traffickers was identified mainly in Westminster policies and much less in policies issued by the devolved governments. Simultaneously, the thesis pinpoints a polarisation between interviewees depending on their professional background, meaning between NGO interviewees and law enforcement interviewees. The former tended to idealise victims more and recognise the existence of a spectrum for traffickers and the latter underlined the spectrum for victims between those who consented to exploitation and those who were deceived/forced, whilst presenting traffickers as almost exclusively organised criminals. NGO interviewees also appeared to be more critical towards the NRM compared to law enforcement participants.

Further, the *idiosyncrasies of the UK constitutional setting* and the deep-rooted ideological differences between Westminster and the Scottish Government have contributed to a fragmented approach across the UK. The different approach of the Scottish Government compared to Westminster renders the prospect of a devolved Scottish NRM worthy of further examination. The structure of the UK as a state that is neither federal nor unitary feeds and will continue to feed on the shortcomings of the UK's approach to trafficking, with the prospect of the UK regulatory practices radically improving, being thus quite limited.

This thesis concludes by confirming and enriching existing literature, which has long pinpointed the existence of a spectrum of trafficking cases, also revealing how the UK's NRM impacts negatively on domestic victims. Finally, combining left realism in criminology, International Relations currents of thought (realism-idealism) and the theory of conflict of rights, this thesis also tries to enrich the teachings of the contemporary Criminology on immigration, trafficking and asylum, which often restricts itself to heavily moralising judgments on destination state practices. Through the theoretical framework of *Criminological Moral Realism*, this thesis tries to take into consideration all the crucial angles of such phenomena, as well as the regulatory challenges faced particularly by the destination state, as it seeks to balance between internationally legislated minimum standards of humanitarianist protection, on one hand, and the conflicted duties states have to satisfy (e.g. budget restraints, criminal justice successes) on the other, with the goal to fuse criminological thinking with a strong sense of realism to promote applicable policy improvements.

## Lay Summary

Human trafficking is the practice of transporting people from one country or area to another with the intention to exploit them usually in labour or sex. Over the last decade, the UK government at Westminster and the devolved governments have passed new legislation against trafficking, with Westminster increasing its criminal justice and border control efforts and adopting the National Referral Mechanism ('NRM') following the design by the Organisation for Security and Co-operation in Europe ('OSCE'). This Mechanism is used to identify potential trafficking victims, support them and conclusively decide if they indeed possess the victim status. However, the NRM together with the UK's approach to trafficking have been criticised by non-governmental organisations and scholars for many reasons. These include poor skills of agencies and officials who are more likely to first come into contact with victims (called first responders), low quality of support given to victims and potential favouritism of British and European victims compared to international ones. Despite the governmental reviews of the Mechanism and the changes applied to it, commentators have not paid enough attention to the policy context in which the NRM operates. In addition, any efforts to understand and tackle the above issues have failed to consider all three angles of human trafficking, which concern victims' rights/needs, traffickers' side and the state side (origin, destination and transit states), with particular emphasis needed to be placed on how destination states regulate trafficking in relation to broader issues, such as immigration.

This thesis examines how the UK regulates trafficking, focusing on adult trafficking victims, by analysing key anti-trafficking policies issued by the government at Westminster and the devolved governments, by interviewing UK anti-trafficking practitioners and a British female victim trafficked for prostitution in England. What came out from the above research is how policies still -to a large extent- tend to use stereotypes of innocent, passive victims and evil traffickers, while promoting unrealistic goals such as the goal of totally eliminating trafficking, mainly to strengthen the UK's *world hero status* as a leading anti-slavery force. However, mostly Westminster policies and much less policies from devolved governments are starting to go beyond these stereotypes and recognise the existence of a wider range of victims or trafficking experiences, such as victims who knew or agreed to be exploited, and a range of traffickers, who may also be families or friends. The frequent fluidity between victims-traffickers was also noted. Additionally, interviewees appeared divided on how they view trafficking based on their professional background. This divide was more notable between NGO interviewees and law

enforcement participants. The former tended to present victims as blameless, recognising that traffickers vary, while criticising more intensely the NRM's operation. The latter presented traffickers as solely organised, recognised that victims vary between those who knew or consented and those forced or deceived, while viewing the NRM more positively.

Further, the divide between reserved and devolved issues in the UK and the long-standing differences in ideology between Westminster and Scotland lead to a fragmented approach across Britain, which makes the prospect of a separate Scottish NRM worth examining. The thesis argues that the way the UK is set up and the division between reserved and devolved issues will continue to cause issues in how the UK regulates trafficking and as a result the prospect of radically improving the UK's approach to trafficking seems limited.

This thesis concludes by confirming literature on how trafficking cases may vary to each other. It also shows that British victims are often overlooked by the NRM. Finally, this thesis considers the challenges, particularly for the destination state, which tries to regulate human trafficking, balancing between applying minimum standards of victims' protection set by international legislation on one hand and satisfying conflicting needs such as budget control, security or increasing criminal justice system successes on the other. This thesis shows how the field of Criminology studying immigration, trafficking and asylum needs to be fused with a better understanding of the destination state's viewpoint and duties, as well as with a better understanding of all the crucial angles of these phenomena, in order to be able to promote more feasible policy improvements.

## Acknowledgements

I want to thank all those who agreed to be interviewed, as well as those who helped me find interviewees. Special thanks to Eve for sharing her story and for having the strength of a hero. In the words of Charles Dickens from *A Tale of Two Cities*: “There is prodigious strength in sorrow and despair”. I wish you make all your dreams come true.

I would like to thank my supervisors, Professor Lesley McAra and Dr Steve Kirkwood for their non-stop support, excellent advice and invaluable help steering me throughout this laborious project. I could not have done this without you.

I would like to thank the Alexander S. Onassis Public Benefit Foundation in Athens, Greece for their full scholarship covering my PhD studies, for supporting my work and for believing in me right from the start of this long and beautiful journey.

Many thanks to Sir Jack Stewart-Clark for showing special interest in my research, for inviting me to discuss about the human trafficking problem and for believing in me. His lifelong work is truly admirable.

Special thanks to my family, my mother Ioanna, my aunt Evdoxia and my grandmother Maria for their continuous support, for advising me and telling me to take things easy. Their unconditional love throughout my life cannot be counted or expressed with words, as is also the case with their endless sacrifices for my education, the values they equipped me and the enormous portions of delicious Greek food they cook for me.

I want to thank my friends in Greece and Scotland for all the fun, the laughs, the struggles and the unforgettable stories.

Last but not least, I want to thank Nicole for her love, for believing in me and for always being there to listen to my problems. I dedicate to you Victor Hugo’s quote from *Les Misérables*: “To love or to have loved, that is enough. Ask nothing further. There is no other pearl to be found in the dark folds of life. To love is a consummation.”

## **Abbreviations**

APA	American Psychiatric Association
ATMG	Anti-Trafficking Monitoring Group
CA	Competent Authority
CICA	Criminal Injuries Compensation Authority
CGD	Conclusive Grounds Decision
COPFS	Crown Office and Procurator Fiscal Service (Scotland)
CPS	Crown Prosecution Service
DLR	Discretionary Leave to Remain
DoJ	Department of Justice (Northern Ireland)
DOS	United States Department of State
ECAT	Council of Europe Convention on Action against Trafficking in Human Beings
FLEX	Focus on Labour Exploitation
GLAA	Gangmasters and Labour Abuse Authority
GRETA	Group of Experts on Action against Trafficking in Human Beings
HTF	Human Trafficking Foundation
HTUPS	Human Trafficking Unit of Police Scotland
IASC	Independent Anti-Slavery Commissioner
ILO	International Labour Organisation
IOM	International Organisation for Migration
JIT	Joint Investigation Team



MAAP	Multi-Agency Assurance Panel
MSHTU	Modern Slavery and Human Trafficking Unit
NASS	National Asylum Support Service
NCA	National Crime Agency
NGO	Non-governmental Organisation
NPCC	National Police Chiefs' Council
NRM	National Referral Mechanism
ONS	Office for National Statistics
OSCE	Organisation for Security and Co-operation in Europe
PTSD	Post-Traumatic Stress Disorder
RGD	Reasonable Grounds Decision
SCA	Single Competent Authority
SOCA	Serious and Organised Crime Agency
STPO	Slavery and Trafficking Prevention Order
STRO	Slavery and Trafficking Risk/Reparation Order
TARA	Trafficking Awareness Raising Alliance
TEPO	Trafficking and Exploitation Prevention Order
TERO	Trafficking and Exploitation Risk Order
TIP Report	Trafficking in Persons Report
UKVI	Home Office Visas and Immigration
UNODC	United Nations Office on Drugs and Crime

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# Chapter 1

## Introduction

*Man is the only Slave. And he is the only animal who enslaves. He has always been a slave in one form or another, and has always held other slaves in bondage under him in one way or another.*

— Mark Twain

### 1.1 Research Aims and Outline of Thesis

This thesis<sup>1</sup> explores how human trafficking is regulated in the UK focusing on adult trafficking victims. Based on documentary analysis of anti-trafficking policies issued by the UK government at Westminster and the devolved governments of Scotland and Northern Ireland, as well as qualitative interviews with UK anti-trafficking practitioners and a female domestic trafficking survivor in England, it offers a critical reading of the current statutory framework in Britain. It argues that UK anti-trafficking policies still largely promote stereotypical representations of victims and traffickers and despite their growing tendency to include a larger trafficking spectrum, the dominant policy narrative tends to revolve around the *idealisation* of victims and *demonisation* of traffickers. Contrastingly, literature and interviews show that trafficking is characterised by an abundance of grey areas, with victims ranging between those who fully consented to be exploited to those forced or deceived, traffickers ranging from low-level to organised criminals, while fluidity between victims and traffickers is frequently noted too. That said, a polarisation was noted between non-governmental organisations ('NGO') and law enforcement interviewees. The former tended to be more vocal regarding the spectrum of traffickers and more stereotypical in their representations of victims, while the situation reversed for law enforcement interviewees, suggesting that professional background played a role in interviewees' accounts. Further, the UK's National Referral Mechanism ('NRM'), used to deal with slavery/trafficking cases and support victims, was found to provide a good starting point for

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<sup>1</sup> This work is supported and fully funded by the Alexander S. Onassis Public Benefit Foundation in Athens, Greece.

victims' recovery and investigations by law enforcement interviewees. However, NGO-related participants tended to be more critical regarding the NRM's alleged failure to provide long-term tailored support for victims. These stereotypical representations that policies still largely promote restricting authorities' scope, coupled with the UK's fragmented approach to trafficking caused by the mix of centralised and devolved policies create a problematic setting. Within this, victims often "cliff-drop" from services and risk being re-trafficked, while the UK fails to substantially increase convictions and prosecutions. Lastly, this thesis contributes to the academic body of criminological knowledge on trafficking, asylum and migration, showing that quite often this current of criminological thought restricts its scope of analysis to heavily moralistic/idealistic judgments of destination state policies and to unrealistic suggestions, over-focusing on immigration and how destination states aim to restrict it as a driver behind such policies. Thus, I argue that these criminological theories tend to ignore crucial angles of these issues and several important factors influencing the regulation of phenomena like trafficking, asylum and immigration. Such angles and factors include the socio-economic situation in origin states, public concerns, media influence and political parties' ideologies in origin, transit and destination states, the influence of harmonisation of legislations in state-level legislation, the effect of state Realism in policymaking or the notion of conflict of rights/needs, meaning the conflicted needs and interests that particularly destination states need to balance when adopting policies. What I propose instead is a more balanced mixing of idealism/moralism, instructing the protection of migratory populations, with state Realism and a better understanding of the conflicting needs that particularly destination states have to fulfil when regulating, including maintaining security, tight budget or increasing the successes of criminal proceedings, leading towards the formation of the theoretical framework of *Criminological Moral Realism*.

The present chapter provides a context for the thesis, beginning with an overview of how trafficking has been conceptualised, followed by a detailed review of official statistics relating to trafficking, especially regarding criminal justice processing.

Chapter 2 forms the critical legislation review of the main international, European and UK legislative framework on human trafficking. I will focus on the critique lodged against the UK's anti-trafficking response based on literature, which led to reforms being rolled out since 2017 by the Home Office. Still, most of this criticism is based on documents and data gathered from statutory services or interviews with victims, which however are not given a central position, but are usually mentioned through isolated quotations and interview extracts, as is the case with Scottish Government policies (e.g. *Trafficking and Exploitation Strategy* and its *Annual*

*Reviews*). Therefore, we lack a holistic stage-by-stage examination of the UK's anti-trafficking response, based on the viewpoints of those directly involved with it, who have a first-hand experience of the NRM and the UK anti-trafficking efforts.

Chapter 3 will review the research literature on trafficking/slavery. Details on the victim and trafficker will be presented, illustrating the large spectrum of trafficking's grey areas. Thus, not only trafficking experiences vary from victim to victim, but also the levels of victims' consent and prior knowledge differ, along with the identities of victims and perpetrators, which often intermingle. Simultaneously, traffickers differ from one another, ranging from those who did not know what they were recruiting for to low-level/opportunistic ones and highly organised criminals. Trafficking will also be discussed from a macro-level point of analysis, showing how it interplays with broader issues, such as prostitution, labour regulations and migration, with state regulations on these matters directly influencing trafficking. Focusing on immigration, which I will evidence is the main overarching issue influencing trafficking, I will illustrate that our criminological thought lacks a wider scope when analysing immigration and trafficking that will consider these issues from all sides, meaning the side of the people migrating/trafficked to a country and the side of the destination state. It will become evident that destination state policymaking on immigration and other related phenomena like trafficking or even asylum is influenced by a broad range of thought currents and factors, such as International Relations Realism (and the state's attempt to maximise power), Liberalism/Idealism (and its focus on international community, international law, harmonisation), political parties' ideologies, media or public perceptions/appeal, as well as the conflicting duties states have to balance when regulating (e.g. maintaining a tight budget or robust homeland security when regulating immigration). Therefore, our criminological analysis should be more open and consider the broader factors that interplay with and influence destination state decisions/policies on immigration and trafficking.

Based on the above and concentrating on the UK, which has increasingly focused on trafficking/slavery with the 2009 introduction of the NRM and the specialised 2015 anti-trafficking/slavery legislation, we can ask the broader question: How is human trafficking regulated in the UK? This question can be divided into three parts, which need to be examined to reach a comprehensive answer:

- How are victims and traffickers viewed in the UK's official discourse and how are both dealt with? What is the approach that the UK follows as regards human trafficking?

- How does the UK deal with the immigration side of human trafficking? How does it view the relationship between immigration and trafficking?
- How are the rights and needs of victims dealt with in the UK?

Chapter 4 discusses the methodology employed to answer the above, along with a discussion on ethics, sampling, transcription and data analysis. I used a *critical document analysis* of the policies constituting the UK's anti-trafficking operational framework, along with qualitative interviews with professionals involved in UK's anti-trafficking efforts and a case study with a domestic survivor.

Chapters 5-9 provide the research findings moving from the broader policy and immigration framework down to more specific details regarding the NRM process and victims' experiences. Chapter 5 will give the findings on the images of the victim and perpetrator, along with the UK goals regarding trafficking based on the policy analysis, while chapter 6 examines the same issues based on professionals' interviews. Chapters 7 and 8 are also based on professionals' interviews. More specifically, Chapter 7 will provide the findings on the immigration status of non-UK/EU victims referred to the NRM, the delays in the NRM's decision-making process, the potential NRM favouritism of British/Europeans over international referred individuals and the balance of power between Westminster and Scotland, a contrast evident in literature, which also became obvious during fieldwork. Chapter 8 will examine the specifics of the NRM process regarding identification, accommodation, support provisions, as well as the issue of low prosecutions and convictions, which is associated with survivors and their engagement with authorities while undergoing the process. Chapter 9 will further zoom in the lens, providing a case study of a female domestic survivor trafficked for sexual exploitation, for whom I use the alias 'Eve'. The chapter will narrate her personal trafficking experience starting from her recruitment, how authorities misidentified her for a decade, how she was finally referred to the NRM, continuing with her experience of the NRM and her suggestions for improvement.

Chapter 10 will discuss the findings, summarising the empirical research and drawing connections to theory. Implications for practice and general reflections will be given, along with an examination of the prospect and feasibility of the Scottish NRM. Finally, the chapter will reflect on the thesis' limitations, providing a call for future research on matters begging for deeper examination.



## 1.2 What Do We Really Know About Human Trafficking?

*Law & Order*, *Taken*, *Criminal Minds*, *Shetland*, *CSI: Miami* and most lately *Rambo: Last Blood*. These are just some popular movies or series that have dealt with the issue of human trafficking in fiction. Most of us have at least watched one of these shows and we could argue that many images and representations regarding human trafficking are reinforced or even entirely shaped by pop culture. However, the question remains...What do we really know about human trafficking?

“Trading in human beings or slavery”, Gabhan (2006: 528) says, is one of the most profitable forms of organised crime, closely connected to the existence of human beings, going on for centuries and still continuing today in various and more sophisticated forms (Gabhan, 2006: 528-529). From Ancient Greece and Rome to China, medieval times, Renaissance, to the Industrial Revolution and then modernity and onwards, slavery has always existed in most places of the world. Abolitionism, the movement to end slavery and the efforts starting from Louis X of France in the late 13<sup>th</sup>/early 14<sup>th</sup> century, continuing with the American Quakers and eventually Britain and the Slavery Abolition Act 1833, the first law abolishing slavery throughout the British Empire, brings us to the legislation currently in force against human trafficking, overarched by the *Palermo Protocol* adopted by the United Nations in 2000.

Evidently, I am using two terms: *human trafficking* and *modern slavery*. Despite the ongoing debate regarding what each term includes, it is generally accepted that modern slavery is the broader term encompassing various criminal activities, including forced labour, servitude and human trafficking, which is a form of slavery distinct due to the element of transportation of people with the intention to exploit them for sex, labour or organs harvesting. These two terms will be further analysed in the following chapter using legislation.

Many commentators claim that slavery and trafficking continue to flourish or even expand today, adapting to the needs of modern fast-paced industrialised societies (Craig, 2017: 17-18). Others disagree, believing that the situation today is less grim than many reports or policies claim. For instance, Pinker (2011: 157) argues that violence and the use of force have been declining as time goes by. Pinker (2011: 157) uses the example of bankruptcy or commercial law, which are more lenient, less vengeful and more understanding towards those who violate a rule today compared to older times. According to Pinker (2011: 157), slavery/trafficking, although still existing, are not as widespread as in the 18<sup>th</sup> century for instance, taking place only in specific parts of the world. Furthermore, the ways in which these are conducted are much less harsh

compared to the past (Pinker, 2011: 157). Pinker (2011: 158) feels that sometimes statistics are increased on purpose and the image promoted is deliberately bleaker than it actually is, blaming journalists and NGOs for presenting a darker view of the problem to serve their own interests. Pinker (2011: 158) counterclaims that today there is a law against slavery in almost every civilised country, everybody condemns these practices and victims form only a small percentage of the population.

However, many scholars and official voices worldwide highlight that slavery is still prevalent or starting to grow again. For instance, the Scottish Crown Office and Procurator Fiscal Service (COPFS, 2013: 1) points out that human trafficking is “the fastest growing criminal industry in the world”, one of the most sizeable and profitable ones along with illegal arms and drugs. The United States Department of State (‘DOS’) in its Trafficking in Persons Report (‘TIP’ Report) emphasises the large numbers of people still exploited around the world, especially for sexual and labour exploitation, a phenomenon which violates legislation, harms families and societies, strengthens organised crime and produces billions of dollars for traffickers (DOS, 2018: 1). Factors including easy transportation, cheap communication, mass migration towards richer countries coupled with strict border controls and few legitimate employment opportunities, have exacerbated the phenomenon of trafficking/slavery (Hernandez and Rudolph, 2015: 118). Commentators have argued that these factors, combined with conditions such as war in origin countries, poverty, unemployment, lack of education and human rights’ violations facilitate today’s apparent expansion of trafficking (Craig, 2017: 17). Pinker’s assertions are not necessarily contradicting the above, but simply suggest that in the long view of history, slavery is less prevalent now than in the past, which, though, does not mean that the phenomenon has ceased to exist.

Snajdr (2013) remains sceptical of official state policies and the stories reproduced in them, calling their “master narrative” the “stuff of legend” (Snajdr, 2013: 252). Snajdr (2013: 252) pinpoints that the main attempt of the U.S. through such policies is to maintain certain images of countries by reproducing specific stories of suffering victims, trafficking experiences and exploitation. These images further reinforce the USA’s role as a leading global anti-trafficking force, which can intervene even in third countries’ internal affairs with the pretext of protecting and helping trafficking survivors (Snajdr, 2013). Jahic and Finckenauer (2005) focus on how governments use official discourse and portray trafficking to serve purposes, goals and stakes different than the rights, needs and interests of victims. They illustrate how trafficking, even though an issue existing continuously since the dawn of civilisation, has become a problem

receiving special attention from the 1990s and onwards and how this focus on trafficking serves as a new battleground for other underlying issues, such as migratory movements, prostitution, workers' rights or women's status in society (Jahic and Finckenauer, 2005: 26, 32).

As regards the actual trafficking experience and the real image of the victim and trafficker, there is heated debate as to whether traffickers' practices are indeed as harsh and violent as we think. As noted above, Pinker (2011) claims that trafficking is not as violent or widespread as it was a few decades or centuries ago. Findings suggest that many victims had negative experiences (Zimmerman, Hossain and Watts, 2011; Doherty and Morley, 2016), while some actually had a good relationship with their traffickers, were treated well by them or even became traffickers themselves, subsequently recruiting new victims (Belanger, 2014). Still, policy makers sometimes neglect this lack of a standard traffickers' profile, framing discussions around a dipole between ideal victims and evil traffickers. As this thesis will demonstrate, this polarisation remains significant for the construction of the current UK legal framework. Arguably, policy makers' attention is focused on female and underage victims and not so much on male victims, who are usually forced into labour (Alvarez and Alessi, 2012: 143). Additionally, as Wilson and O'Brien (2016: 30) noticed, only the suffering stories of perfect victims are publicised by policy makers and media, shaping our understanding of trafficking. As Haverkamp (2019) summarises, a practice of putting victims in a hierarchical scale of deservedness is taking place globally, from those less deserving (meaning less pure and ideal) to perfectly deserving ones, usually in the form of a blameless, innocent girl exploited in prostitution. This practice goes in accordance with Christie's (1986) notion of the ideal victim, which I unpack in chapter 3, showing how prevalent this polarisation between innocent victims and evil traffickers can sometimes be in policies.

Evidently, human trafficking is not a 'black-or-white' issue, but a problem where many grey areas exist. Before further debating these in chapter 3, to better understand trafficking and properly adjust the focus of our problematisation, it is now important to describe the broader picture of human trafficking using global and UK statistics.

### **1.3 Modern Slavery and Human Trafficking Global Figures**

Measuring human trafficking accurately is a problem baffling criminologists, governments, NGOs and international bodies because of trafficking's "clandestine nature" (Aronowitz, 2001:

169), which essentially makes this a covert criminal activity. Stefanizzi (2007: 46) concurs that trafficking is a complex issue and a criminal activity operating through many networks and routes. Albrecht (2019) states how questionable and potentially invalid trafficking data or estimates are, regardless of the methods employed. Despite the fact that many agencies are involved in the efforts to reduce trafficking, there is a general lack of cooperation and progress in the statistical methods used, making it very difficult to accurately measure a phenomenon as complex as trafficking (Stefanizzi, 2007: 46).

The United Nations Office on Drugs and Crime ('UNODC') identified a correlation between migration and trafficking, as many migrants -usually refugees and poor people- looking for a better future, are often the most vulnerable ones and subsequently the easiest targets for becoming slavery/trafficking victims (UNODC, 2016: 13). UNODC estimated that, in 2015, there were 244 million migrants worldwide, marking a rise of more than 40% compared to 2000, with many forced to move due to civil, political or religious unrest and persecution at home (UNODC, 2016: 13). 63,251 trafficking victims were detected in 106 countries and territories between 2012 and 2014 (UNODC, 2016: 23). In its 2018 Report, the UNODC (2018: 7) illustrated how identification of victims along with traffickers' convictions are globally increasing. According to UNODC (2018: 7), this rise is attributed to both the improvement in identification skills of authorities and to an increase in victims. Domestic trafficking is also rising, while economically developed countries remain the primary destinations for victims transported over long distances (UNODC, 2018: 9). For example, between 2003 and 2016, the UNODC (2018: 21) collected information on 225,000 victims worldwide, while by 2016 we had an increase of 40% in victims' reporting and identification compared to 2011. 2016 was also the peak year in victims' detection, with over 24,000 victims identified that year, a phenomenon attributed to an increase in the countries reporting trafficking incidents to the UN and in the reports produced within countries already reporting to the UN (UNODC, 2018: 21). Contrastingly, the Department of State (2018: 43) reports that 68,453 victims were identified globally in 2016, reaching 85,613 in 2018 (DOS, 2019: 38)

The International Labour Organisation ('ILO') in its 'Global Estimates of Modern Slavery: Forced Labour and Forced Marriage' report gives details on forced labour and forced marriage, based on data drawn by surveys from the Walk Free Foundation in 2014 and 2015 and national surveys by ILO, the Walk Free Foundation and the International Organisation for Migration ('IOM') with the help of the UN. ILO defines forced labour as labour forced in all sectors of the private economy (e.g. construction, manufacture), as forced sexual exploitation of adults and

commercial sexual exploitation of minors and finally as state-imposed forced labour (ILO, 2017: 9). Following that, ILO (2017: 5) claims that over the period 2011-2016, 89 million people were victimised worldwide. In 2016, there were approximately 40 million victims of modern slavery, which roughly translates to 5.4 victims per 1,000 people worldwide (ILO, 2017: 5), a number which even if encompassing all forms of slavery dramatically raises the numbers compared to UNODC's and DOS' findings above. It is worth mentioning that ILO produces estimates on slavery, whilst UNODC (2016: 23) gives "data on the patterns and trends of trafficking in persons from official, national criminal justice sources" and DOS (2017: 34) presents "data on trafficking investigations, prosecutions, convictions, and sentences" collected by foreign governments. ILO adds that 7 out of 10 victims are women and girls, whilst 1 out of 4 victims is a minor (ILO, 2017: 10).

UNODC (2018) gives a more detailed analysis, especially regarding gender, age and exploitation form. In 2016, almost half victims were women (49%), one fifth of them being men (21%), almost a quarter girls (23%) and 7% boys (UNODC, 2018: 10, 25). Most women and girls were trafficked for sex, while most men for labour exploitation, with boys trafficked on a scale of 50% for forced labour and the remaining split between prostitution and other purposes (e.g. organs' harvesting) (UNODC, 2018: 28). Turning to exploitation forms, females (women and girls) form the overwhelming majority of victims trafficked for sex (94%), while males are predominantly trafficked for labour (65%) (UNODC, 2018: 33).

Looking at the offenders' profile, the UNODC (2018: 35-36) claims that, in 2016 or most recently, 69% of the persons investigated or arrested for trafficking were male compared to 31% who were female, 65% of the persons prosecuted for trafficking were male compared to 35% female, while these numbers change respectively to 62% and 38% concerning convictions. These figures show that the participation rates of women in trafficking as perpetrators is among the highest in all types of crime in western jurisdictions. Tripkovic and Plesnicar (2018) illustrate that in the U.S., according to FBI's 2015 statistics, 26.9% of the arrests concerned female offenders, while in Europe, according to the European Institute's for Crime Prevention and Control 2010 figures in the latest edition of the European Sourcebook of Crime and Criminal Justice Statistics, the participation of women in crime fluctuates between 4.3% in Albania to 25.4% in Germany. Of course the phenomenon of female trafficking victims, who became traffickers themselves, is mentioned by the UNODC (2018). Still, many trafficking networks are actually operated by women who were not victims before, but began their trafficking involvement directly as perpetrators (UNODC, 2016: 36-37).

The UNODC (2018: 45) recognises the legislative efforts of many countries against trafficking, illustrating that until August 2018, 168 of the 181 examined countries had enacted relevant anti-trafficking legislation. Evidently, the longer a country has special anti-trafficking legislation, the more convictions are achieved, since the criminal justice system has had more time to adapt to new rules and definitions, gain experience and specialisation (UNODC, 2016: 50-52). Yet, the UNODC emphasises the persisting low absolute numbers of convictions, despite the increasing trends noted in some countries, which result in traffickers facing low risks of punishment (UNODC, 2018: 23). As the UNODC (2018: 23) notes “the question remains as to whether fewer convictions reflect low levels of trafficking activity or a limited ability to detect this crime”.

The aforementioned figures help understand the extent of slavery and trafficking worldwide. It is crucial to realise how different the figures that various bodies present are. This pinpoints how difficult it is to provide accurate measurements on trafficking/slavery, due to their covert nature, the organised character of many traffickers/slave drivers and the unwillingness of victims to open up. It is now time to shift the focus to the UK context.

#### **1.4 Modern Slavery and Human Trafficking UK Figures**

Amidst this broader global situation, the UK has been focusing on human trafficking over the last decade with the introduction of the NRM in 2009 and the enactment of specialised slavery/trafficking legislation in 2015, further analysed in chapter 2. The NRM is the system used by the UK to deal with trafficking/slavery cases, identify and support victims and gather evidence to assist prosecutions. The UK NRM operates based on the model designed by the Organisation for Security and Cooperation in Europe (‘OSCE’). Hereinafter, I make the following distinction: When referring to the NRM, as designed by the OSCE, I shall refer to it as the ‘OSCE NRM’, whilst when referring to the UK’s NRM, I will simply refer to it as the ‘NRM’ or the ‘UK NRM’.

The NRM was introduced with high hopes and expectations, however it has been criticised by NGOs, scholars, the Independent Anti-Slavery Commissioner (‘IASC’) and the Home Office for reasons including lack of sufficient help to victims, accommodation, misidentification of real victims, its decision-making process or the precarious immigration status for survivors despite them conclusively found to be victims. The critique of the NRM will be fully given in chapter 2.

Looking at the National Crime Agency's ('NCA') official statistics, referrals of potential victims to the NRM are steadily increasing. I am focusing on the period 2013-2019, since 2013 marks the year in which the NCA started producing more detailed statistics on trafficking/slavery. From 2013, when 1,746 referrals were made to the NRM of which 1,295 concerned adults, we reached 10,627 referrals in 2019 of which 5,866 concerned adults (NCA 2014, 2020a). This upward trend, illustrated in Figure 1, begs further exploration. Is it an increase in awareness or in real trafficking in Britain?

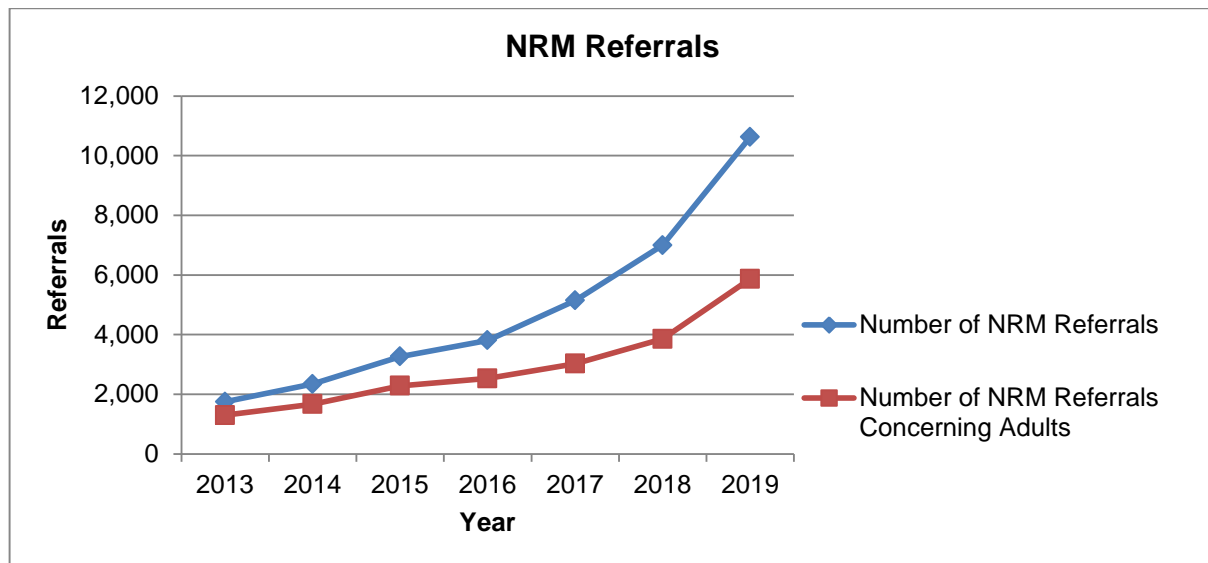
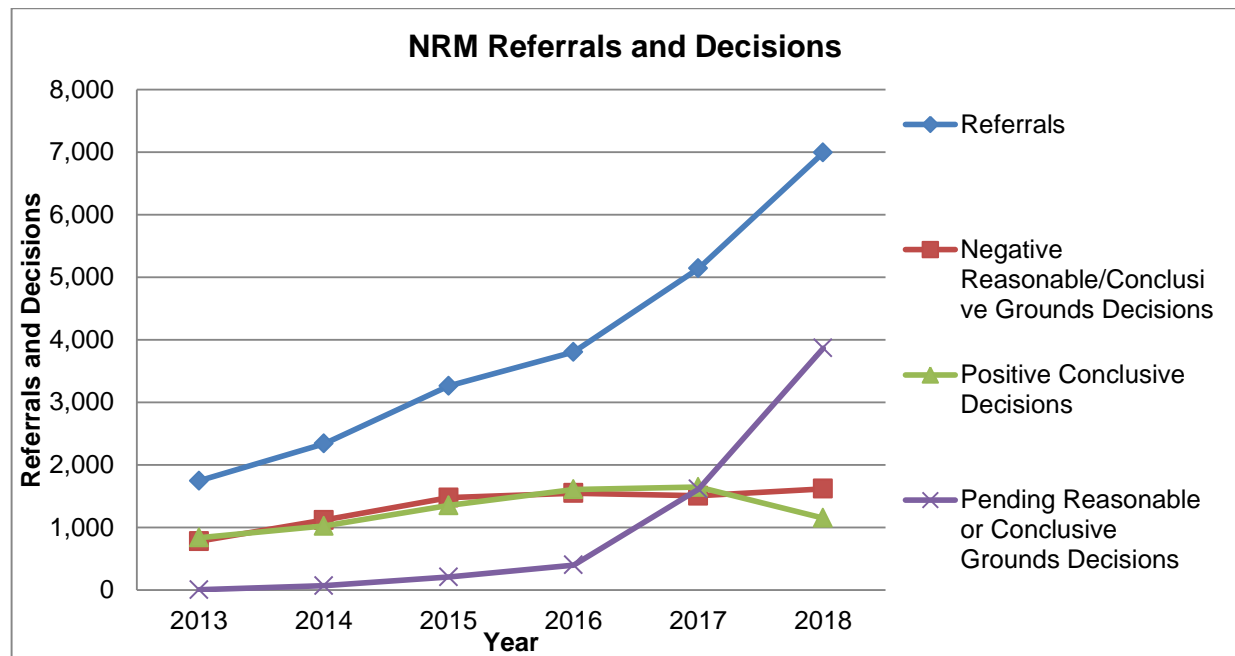


Figure 1: Number of NRM referrals per year 2013-2019 (NCA 2014, 2015, 2016, 2017, 2018, 2019, 2020a)

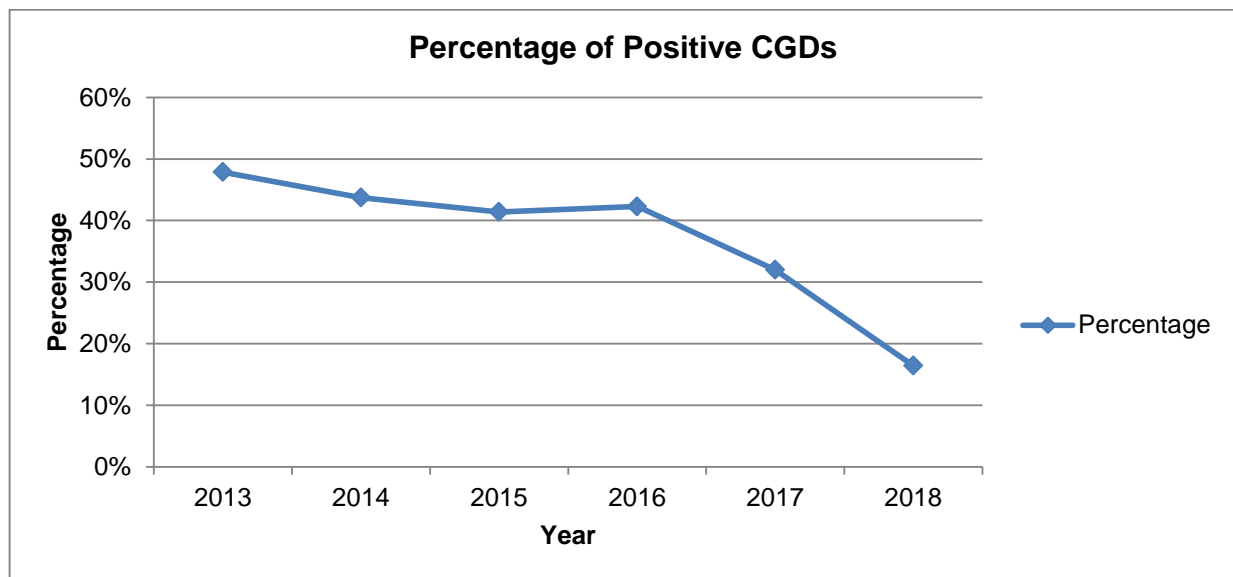
The NRM process will be fully unpacked in chapter 2, but it is worth clarifying that we have two rounds of decisions: the reasonable grounds decision ('RGD') taken within 5 days after a potential victim is referred to the NRM based on the "suspect but cannot prove" low threshold of proof and the conclusive grounds decision ('CGD'), which conclusively decides on the status of the referred person as a victim or not based on the balance of probabilities. As seen above, the decision-making Competent Authorities ('CAs') (now Single Competent Authority-'SCA') receive more referrals every year. Using the 2018 NRM statistics (NCA, 2019), we see that despite the fact that up until 2017 more positive conclusive decisions were issued every year in absolute numbers, when comparing the numbers of positive conclusive decisions to referrals, evidently

the former are fewer as a percentage every year (NCA, 2019: 5). In 2018, there is also a significant fall in absolute numbers for positive conclusive decisions with negative decisions marking a twofold rise from 779 in 2013 to 1,617 in 2018 (NCA, 2019: 5). These trends show the excessive workload of the CAs, underlining the delays victims endure, also evidenced by the number of cases pending decisions, reaching 3,867 in 2018. However, they may also indicate a reluctance of CAs to give the victim status to people referred to the NRM. Thus, they beg more research. These observations can be seen in the following figures:



**Figure 2: Number of NRM referrals and decisions per year 2013-2018 (NCA 2014, 2015, 2016, 2017, 2018, 2019)**





**Figure 3: Percentage of Positive Conclusive Decisions per year 2013-2018 (NCA 2014, 2015, 2016, 2017, 2018, 2019)**

Unfortunately the 2019 NRM statistics (NCA, 2020a) are far less detailed and therefore no data on 2019 is included above. This can be observed by performing a *prima facie* examination of the latest publication, which is only 9 pages, compared to older versions, which spanned between 74-88 pages (NCA 2017, 2018, 2019). Still, the latest edition informs us that 8,429 of the 10,627 referrals made in 2019 (circa 80%) are waiting a CGD compared to 38% of the referrals made in 2018 (NCA, 2020a: 5). Further, 1,154 referrals (10.9%) have already received a negative decision (reasonable or conclusive grounds), while only 7% of all 2019 referrals (absolute number not given) received a positive conclusive decision (NCA, 2020a: 5). These numbers show a further rise in pending cases and a further fall in the percentage of positive conclusive decisions, which the NCA (2020a: 5) attributes to “the current length of time taken to make conclusive grounds decisions”.

Tables 1 and 2 illustrate the 2017 and 2018 share of positive/negative conclusive decisions for UK/EU and non-UK/EU potential victims irrespective of age:

Nationality of Potential Victim	Positive CGD	Negative CGD	Pending CGD	Other Outcome (Suspended, Withdrawn, Negative or Pending RGD)	Total
<b>UK/EU</b>	411 (28.1%)	73 (5%)	721 (49.3%)	256 (17.5%)	1,461
<b>Other</b>	89 (2.4%)	94 (2.6%)	2,447 (66.5%)	1,047 (28.5%)	3,677

**Table 1: Case decision status for UK/EU and non-UK/EU referred individuals for 2017 (NCA, 2018)**

Nationality of Potential Victim	Positive CGD	Negative CGD	Pending CGD	Other Outcome (Suspended, Withdrawn, Negative or Pending RGD)	Total
<b>UK/EU</b>	863 (34.8%)	231 (9.3%)	700 (28.2%)	689 (27.7%)	2,483
<b>Other</b>	281 (6.2%)	103 (2.3%)	3,007 (66.7%)	1,115 (24.7%)	4,506

**Table 2: Case decision status for UK/EU and non-UK/EU referred individuals for 2018 (NCA, 2019)**

These tables evidence the few positive decisions issued for non-UK/EU individuals compared to UK/EU ones, along with the huge backlogs and delays the former are also facing. The Anti-Trafficking Monitoring Group (ATMG, 2013: 18) has long ago pinpointed the discrepancy in decision outcomes seemingly favouring EU/EEA over non-EU/non-EEA referred individuals. Craig (2017: 23) focuses too on the allegations for “racist” practices expressed against the NRM, usually by NGOs. This worsens the already negative situation for ethnic minorities from

non-EU countries, Craig (2017: 23) explains. This stark difference, according to the ATMG (2013: 18), is because most EU victims are referred to the NRM by the police, who gather evidence in a more concise way compared to other bodies/authorities. This situation that now places EU victims in a better position compared to international ones might change though, due to the UK's withdrawal from the EU, commonly referred to as Brexit. As the ATMG (2017) claims, the cooperation of the UK with transnational police forces, including Europol and Eurojust, along with the anti-trafficking operations carried by Joint Investigation Teams ('JITs') might be jeopardised, with the UK leaving the jurisdiction of the Court of Justice of the European Union, thus risking the loss of significant criminal justice mechanisms. In addition, the fact that European Labour Law will not be transposed to UK legislation, along with the UK's goal to restrict immigration, ending the free movement of continental Europeans to Britain may worsen the situation, decrease the legal routes of migration to the country, potentially increasing the demand for irregular migration to Britain (ATMG, 2017). This could become a factor, the ATMG (2017) fears, which will provide more opportunities for smugglers and traffickers to exploit the desire of many to immigrate to the UK, therefore increasing the scope for people's exploitation.

The most common victims' origin countries include Albania, Nigeria, Vietnam, Romania and China, along with a sharp increase of British slavery victims. The UK ranks first in the list of victims' origin countries since 2017 regarding all victims and since 2016 regarding underage victims, whilst regarding adult victims it ranks sixth and fifth in 2017 and 2018 respectively (NCA 2014, 2015, 2016, 2017, 2018, 2019, 2020a). Surprisingly, in 2018 no British victims were referred to the NRM in Scotland, with Northern Ireland referring only one in 2017 (NCA 2018, 2019).

Regarding trafficked adults in Britain, labour exploitation steadily ranks first since 2015, extending its lead every year, as shown in figure 4 (NCA, 2014, 2015, 2016, 2017, 2018, 2019, 2020a). Correspondingly, a sharp increase of male victims is noted (figures 5 and 6), with adult male victims predominantly exploited in labour. These statistics undoubtedly show that human trafficking is a crime that can have victims of both genders:

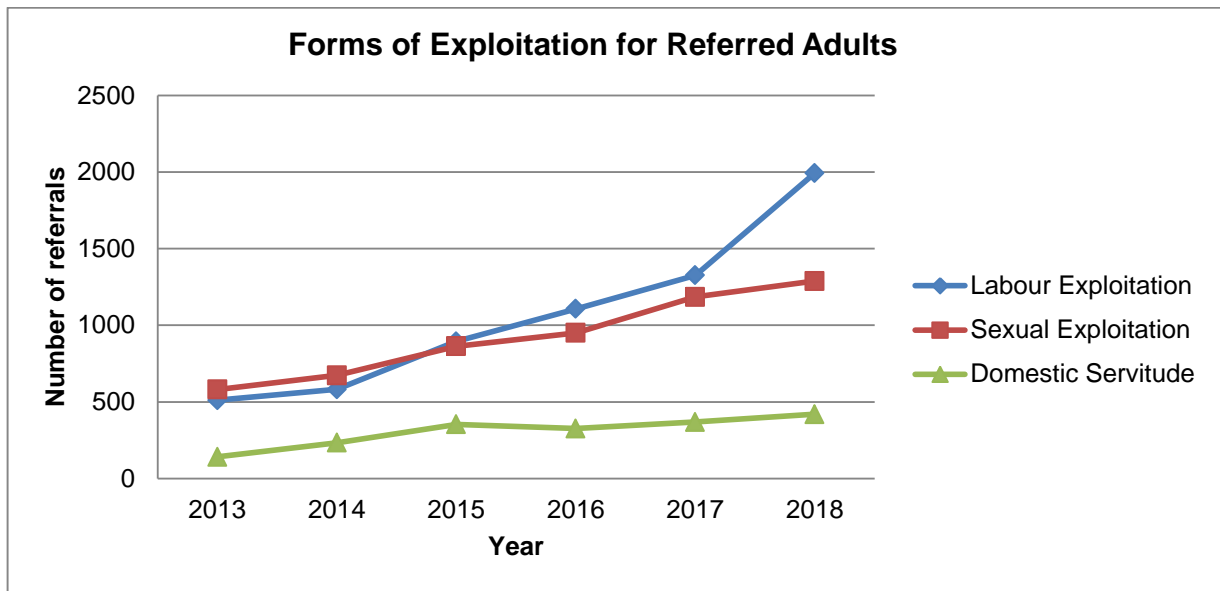


Figure 4: Forms of exploitation for potential adult victims referred to the NRM per year 2013-2018 (NCA 2014, 2015, 2016, 2017, 2018, 2019)

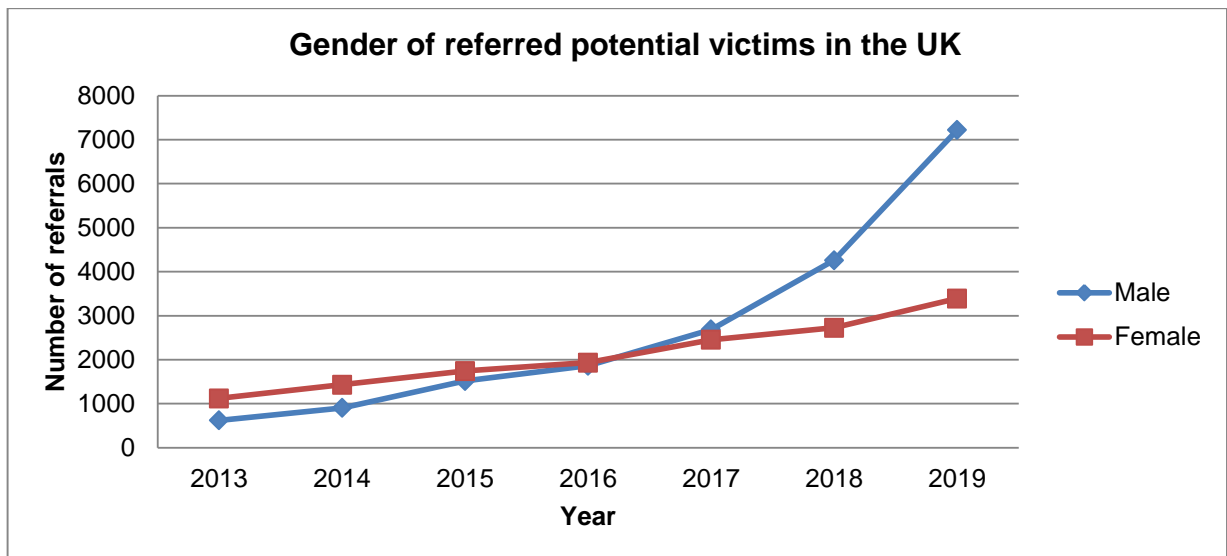


Figure 5: Gender of potential victims of all ages referred to the NRM per year 2013-2019 (NCA 2014, 2015, 2016, 2017, 2018, 2019, 2020a)

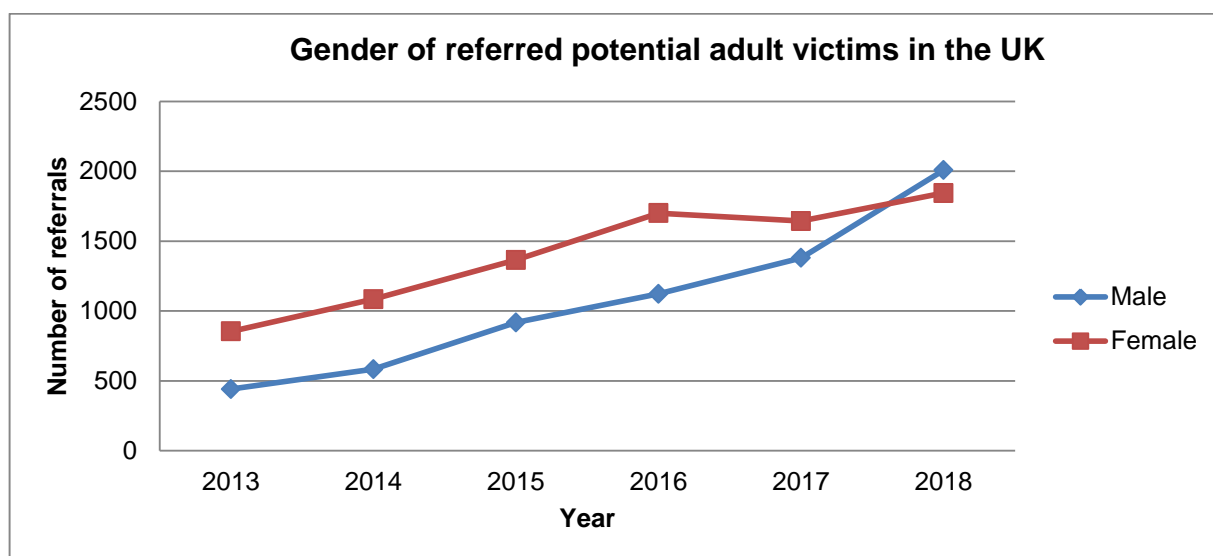


Figure 6: Gender of potential adult victims referred to the NRM per year 2013-2018 (NCA 2014, 2015, 2016, 2017, 2018, 2019)

Table 3 shows the NRM referrals made in each nation between 2013 and 2018. If we compare absolute numbers, England is by far the first, with Scotland usually second, Wales usually third and Northern Ireland last. This ranking corresponds to how these nations rank in population. Regarding the percentage of increase in referrals, Wales has seen a fivefold increase compared to England where the increase is a bit over 300%, Scotland where the numbers went up by almost 2.5 times and Northern Ireland where we notice the smallest increase (20%):

Nation	2013 NRM referrals	2014 NRM referrals	2015 NRM referrals	2016 NRM referrals	2017 NRM referrals	2018 NRM referrals
England	1,556	2,114	2,934	3,499	4,714	6,462
Scotland	99	111	145	150	207	228
Wales	50	70	134	123	193	251
Northern Ireland	41	45	53	33	31	52

Table 3: NRM referrals per UK nation between 2013 and 2018 (NCA 2014, 2015, 2016, 2017, 2018, 2019)

Examining the relationship between referrals and each nation's population and using the 2018 NCA/NRM statistics and the 2018 population figures provided by the Office for National Statistics (ONS, 2019), I shall try to identify the ratio of referrals per 100,000 population for each UK nation. Since in 2018 we had 6,462 referrals in England, a country of 56,000,000 people, this gives us a rate of 11.5 referrals per 100,000 population. In Scotland, we have a rate of 4.2 referrals per 100,000, while this figure is 8.1 for Wales and 2.7 for Northern Ireland. On a first look, these results suggest that the other three nations are falling behind England regarding identification and NRM referrals. However, these figures could potentially indicate that there are simply fewer cases in Scotland, Wales and Northern Ireland compared to England. Thus, this method has serious limitations, as it employs a simplistic rationale that only focuses on crude numbers without considering other factors, including that the majority of trafficking victims would naturally be found in England, as most traffickers would choose England based on its size, market and existence of more opportunities for their criminal business. Therefore, England might produce more NRM referrals, simply because it has a far greater number of real cases due to its size, exceeding that of the other nations. However, this finding combined with the low numbers of domestic victims in Scotland and Northern Ireland creates the need to further explore issues pertaining to awareness and the profile of victims put forward in these nations. It also begs for exploration of policing practices around the UK.

Trying to establish the real extent of trafficking/slavery in Britain, the first official estimate concerned 2013, suggesting the existence of 10,000-13,000 modern slavery victims in the UK (Home Office, 2018a: 4). This estimate was based on Silverman's (2014) study, which used the then numbers, which are significantly lower than today's referrals. This estimate was eventually translated to NRM referrals in 2019 (NCA, 2020a). However, this does not suggest that the NRM managed to uncover the entire 'dark figure' of slavery/trafficking in the UK, since according to the same report (Home Office, 2018a: 4), the NCA assesses that the actual scale of modern slavery in Britain is continuously rising. Thus, Silverman's estimated 'dark figure' might actually be much larger today. The Walk Free Foundation (2018) estimated the number of slavery victims in the UK at 136,000. The ONS (2020: 6), though, disagrees with both Silverman's study for reasons pertaining to data sources and the model used to reach this estimate (multiple systems estimation approach), as well as with the Walk Free Foundation (2018) questioning the accuracy of their estimates due to trafficking's covert nature. Contrastingly, the ONS (2020: 6) suggests measuring the actual progress of the UK in

combating slavery, rather than trying to measure the ‘dark figure’, which is an extremely precarious task due to trafficking’s/slavery’s hidden nature.

Examining the number of modern slavery offences recorded by police, we see a rise across the UK, which the ONS (2020: 7-9) attributes to improvements in awareness and recording the crime:

Jurisdiction	Apr2015-Mar2016	Apr2016-Mar2017	Apr2017-Mar2018	Apr2018-Mar2019
<b>England and Wales</b>	909	2,306	3,412	5,144
<b>Scotland</b>	N/A	50	89	179
<b>Northern Ireland</b>	35	21	30	38

**Table 4: Number of modern slavery offences recorded by police forces across the UK Apr2015-Mar2019 (ONS, 2020)**

Nonetheless, looking at the number of prosecutions and convictions for all slavery/trafficking offences throughout the UK, both under the 2015 trafficking/slavery legislation and the legislation before<sup>2</sup>, we see that they are still low. In England and Wales, the number of slavery offences prosecuted and convicted, irrespective of whether they were classified as the ‘principal offence’, the prosecution percentage when compared to NRM referrals and the conviction rates are shaped as follows:

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<sup>2</sup> Section 59A *Sexual Offences Act 2003* (inserted by Section 109 of the *Protection of Freedoms Act 2012*), Section 4 *Asylum and Immigration (Treatment of Claimants) Act 2004* and Section 71 of the *Coroners and Justice Act 2009*.

England and Wales	2014	2015	2016	2017	2018
<b>NRM Referrals</b>	2,184	3,068	3,622	4,907	6,713
<b>Number of Prosecuted Offences</b>	253	289	251	444	377
<b>Number of Convicted Offences</b>	108	111	135	115	106
<b>Prosecution Percentage</b>	11.6%	9.4%	6.9%	9%	5.6%
<b>Conviction Rate (of all prosecuted cases)</b>	42.7%	38.4%	53.8%	25.9%	28.1%

**Table 5: Trafficking/slavery prosecutions and convictions along with NRM referrals in England and Wales (2014-2018) (Home Office, 2018a: 19; Home Office, 2019a: 51-52; NCA 2015, 2016, 2017, 2018, 2019)**

The main limitation is that the prosecution percentage formed based on the prosecuted offences and NRM referrals does not necessarily reflect how many of that particular year's referrals were turned into prosecutions. For instance, a 2017 NRM referral does not necessarily mean that it resulted in a 2017 prosecution, as it usually takes months or years to conclude investigations and proceed to prosecutions. Also, I chose to focus on prosecuted/convicted offences and not individuals prosecuted/convicted, as an individual can be charged with multiple offences. Therefore, a focus on individual criminals could make us lose sight of how many offences are ultimately processed. Still, the above prosecution rate is a good indication that referrals are increasing, but prosecutions are falling steadily every year as a percentage. Correspondingly, the conviction rate of prosecutions is also falling, whilst even the maximum conviction rate of 53.8% noted in 2016 is well below the general conviction rate in England and Wales, which fluctuated between 82-84% during 2007-2015 (Ministry of Justice, 2017) and 85-87% for 2016-2018 (Ministry of Justice 2017, 2018, 2019). In fact, the slavery/trafficking conviction rate marked a significant drop in 2017 and 2018, as the Home Office (2019a: 14-15) also noticed,



attributing that to the complexities of trafficking/slavery and the need for more time to conclude proceedings.

As regards Scotland and Northern Ireland, Tables 6 and 7 provide the necessary information on offences proceeded, prosecuted and convicted according to the ONS (2020). The numbers of NRM referrals are provided for Northern Ireland, but not Scotland, because the offences proceeded and convicted in Scotland are broken down based on financial years calculated between April to March and not calendar years, as the NRM does. This does not allow us to make accurate comparisons with NRM referrals and establish an annual prosecution percentage. Nonetheless, the numbers below are evidently extremely low:

Scotland	Apr2013-Mar2014	Apr2014-Mar2015	Apr2015-Mar2016	Apr2016-Mar2017	Apr2017-Mar2018
<b>Number of Modern Slavery Offences Proceeded</b>	9	3	3	-	9
<b>Number of Modern Slavery Offences Convicted</b>	4	0	-	0	3
<b>Conviction Rate (of all prosecuted cases)</b>	44.4%	0%	-	-	33.3%

**Table 6: Trafficking/slavery offences proceeded and convicted in Scotland Apr2013-Mar2018 (ONS, 2020)**

Northern Ireland	2013	2014	2015	2016	2017	2018
<b>NRM Referrals</b>	41	45	53	33	31	52
<b>Number of Modern Slavery Offences Prosecuted</b>	3	13	0	13	3	20
<b>Number of Modern Slavery Offences Convicted</b>	-	-	0	9	0	-
<b>Prosecution Percentage</b>	7.3%	28.9%	0%	39.4%	9.7%	38.5%
<b>Conviction Rate (of all prosecuted cases)</b>	-	-	0%	69.2%	0%	-

**Table 7: Trafficking/slavery prosecutions and convictions, along with NRM referrals in Northern Ireland between 2013-2018 (ONS, 2020) (NCA 2014, 2015, 2016, 2017, 2018, 2019)**

Slavery/trafficking conviction rates for Scotland and Northern Ireland are much lower compared to their general conviction rates. The general conviction rate in Scotland fluctuates between 87-89% for 2009-2019 (Scottish Government 2016a, 2017a, 2018a, 2019a), whilst in Northern Ireland between 83-85% for 2013-2019, according to the Department of Justice (DoJ 2014, 2015a, 2016a, 2017, 2018, 2019a, 2020). Yet, slavery/trafficking conviction rates are either null or at most 44.4% for Scotland and 69% for Northern Ireland, clearly lacking a stable statistical progress and thus evidencing that, arguably, criminal justice success rates regarding trafficking/slavery offences are mostly circumstantial and largely inconsistent.

To sum up, the NRM has managed to reveal many trafficking cases. However UK prosecutions and convictions remain low. This lack of proportion between the steadily increasing referrals and

the low numbers of successful criminal justice proceedings needs further examination. Moreover, the referrals' increase is predominantly located in England with Scotland, Wales and Northern Ireland showing a rise too, albeit a much smaller one. Another issue is the prevalence of domestic survivors in the general NRM statistics (due to England), combined with a scarcity of such victims in Scotland and Northern Ireland. The above numbers give a good overview of the UK human trafficking situation and the NRM's shortcomings, as I now turn to a detailed examination of the anti-slavery/anti-trafficking legislation on an international, European and UK level.

## **Chapter 2**

### **Critical Legislation Review**

#### **2.1 Introduction**

This chapter will present the international and European legislation on modern slavery and human trafficking, examine the main obligations this legislation places on signatory states and provide the legal definitions of these terms, drawing a distinction between trafficking, slavery and smuggling. A table of cases and legislation can be found in Appendix 1. Additionally, I shall present what the NRM is based on the OSCE's model. Finally, I aim to provide the UK anti-trafficking legislation: the UK's *Modern Slavery Act 2015*, the *Human Trafficking and Exploitation (Scotland) Act 2015* and the *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015*. Special emphasis will be placed on the UK NRM, as the official anti-trafficking mechanism/response. I will discuss the main criticism against the UK legislation and NRM by scholars, organisations and governmental reviews. The main allegations against the NRM include misidentification of genuine victims, issues with support and accommodation, delays in decision-making especially for non-UK/EU survivors and precarious immigration status for international victims. These issues are driving this research, spurring my interest around the UK's anti-trafficking response and creating questions, fostering the need to examine how the UK regulates trafficking more closely.

#### **2.2 International and European Legislation: Defining Human Trafficking**

Several legal instruments have been adopted on an international and European level against trafficking/slavery. It is worth examining them to note down the legislators' efforts to confront these criminal activities, to accurately define human trafficking and to help discuss in more depth the UK legislation, which draws upon this broader legal landscape.

The most significant international legal instrument is the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime* ('Palermo Protocol') adopted by the United Nations in 2000. As its Preamble and art.2 point out, there is a need for international cooperation among the countries involved (origin, transition and destination countries) and for focus on prevention, punishment of perpetrators and protection of victims. The definition of human trafficking in art.3(a) is probably the most cited definition of the offence:

"Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;"

As Chandran (2011a: 9) explains, human trafficking consists of the basic criminal act (e.g. recruitment, transportation, transfer, harbouring or receipt of persons), the means traffickers employ (e.g. threats, violence, abduction, fraud, deception, abuse of power) and the intention of exploitation. Exploitation can have several forms, such as sexual exploitation, forced labour, slavery, servitude or removal of organs (Chandran, 2011a: 9-10).

Consent of the victim in his/her exploitation is irrelevant, if the above means have been employed according to art.3(b), whilst art.3(c) legislates that examination of the means used is not necessary for child victims. Article 5 instructs states to criminalise trafficking. The rest of the Protocol focuses on measures to enhance victims' identification and protection, including protection of victims' identities, adjusting criminal and administrative proceedings to the special requirements of human trafficking, introducing procedures for the protection and support of victims, such as giving a voice to victims in criminal proceedings, helping them medically, psychologically, promoting their reintegration to society, encouraging multi-agency cooperation, providing accommodation, legal aid, counselling, interpreters, jobs and compensation (art.6). States are obliged to tailor these provisions to victims' gender and age, ensuring that victims can stay for a sufficient period of time in the destination country (art. 6 and 7). Origin states must confirm that they are able to accept victims back (art. 8) and generally all parties must take

measures and adopt policies to prevent trafficking, protect victims, raise awareness, fund research, promote cooperation with NGOs, tackle trafficking's underlying causes and the factors increasing demand (art. 9). Emphasis is placed on training of authorities in prevention, prosecution and victims' protection, on human rights, gender/age issues and on strengthening border controls.

In Europe, the *Council of Europe Convention on Action against Trafficking in Human Beings* ('*Trafficking Convention*' or '*ECAT*') adopted in 2005 does not contravene the Palermo Protocol, but strengthens its protection, art.39 explains. The Preamble states that "respect for victims' rights, protection of victims and action to combat trafficking in human beings must be the paramount objectives". As Chandran (2011b: 28) points out, the *Trafficking Convention* promotes the 4 'P's, namely prevention, protection of victims, prosecution of traffickers and partnership among all agencies involved against trafficking. Art.4 contains the same definition of trafficking as the *Palermo Protocol*, embracing the same principles of preventive measures, multi-agency approach and training of authorities. Art.10 stresses the need for an identification process in each State-Party and if a person is believed to be a victim on reasonable grounds, then he/she cannot be removed from the country. Art.12 mentions the need for state support and assistance schemes, emphasising that help should be provided irrespective of the victim's willingness to help as a witness in criminal proceedings. Art.13 introduces the recovery and reflection period of -at least- 30 days that every state must provide, if there are reasonable grounds to believe that a person is a trafficking victim. During this period, the potential victim cannot be removed, whilst he/she has enough time to escape traffickers' influence, recover and decide on whether they will cooperate with authorities in criminal proceedings. The body responsible for monitoring the Convention is the Group of Experts on Action against Trafficking in Human Beings ('GRETA') (art.36).

Finally, the *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (the '*Trafficking Directive*') makes trafficking a "priority" for the EU, constituting a "part of a global action against trafficking in human beings". The *Trafficking Directive* "adopts an integrated, holistic and human rights approach" promoting cooperation among Member States and agencies, protection of victims and tailored assistance on each victim's specific circumstances and cultural context. The Directive defines *vulnerability* as "a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved" (art.2 par.2). It emphasises the need

for special training of authorities (art.9), assistance and support of victims (art.11) and protection from secondary victimisation by avoiding repetition of interviews, visual contact between victim and trafficker, testifying in open courts and pressing questions regarding victims' private life (art.12).

## **2.3 Distinguishing Human Trafficking From Modern Slavery and Human Smuggling**

It is now worth clarifying the relationship between the terms *modern slavery*, *human trafficking* and *human smuggling*. Modern slavery is a broader term and form of criminal activity, including human trafficking, slavery, servitude and forced or compulsory labour (Home Office, 2016a: 23). Human trafficking is just one form of modern slavery, defined by the act, means and intention of exploitation. Regarding the other forms of modern slavery, forced or compulsory labour is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" by Article 2 of the *UN Convention concerning Forced or Compulsory Labour*. Servitude is the "obligation to provide a service that is imposed by the use of coercion" (Home Office, 2016a: 34), whilst slavery is defined as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised" according to the *1926 Convention to Suppress the Slave Trade and Slavery*.

Trafficking and smuggling are also often confused with one another or even connected sometimes. The *UN Protocol against the Smuggling of Migrants by Land, Sea and Air* defines smuggling as "... the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national". Holmes (2010a) gives six basic points that distinguish trafficking from smuggling. Firstly, smuggling is always a transnational crime, whilst trafficking can also be domestic; smuggling is always connected with illegal crossing of borders, while trafficking victims might be legally migrating to the destination country just to be illegally exploited there; thirdly and fourthly, trafficking often involves the use of threats, violence and/or deception of the victim, whilst smuggling usually takes place without the use of violence or deception, since the person being transported to another country has consented to transportation and is in many cases perfectly aware of what is going on; fifth, the relationship between trafficker and victim continues even

after reaching the destination country, where the victim is exploited by traffickers, whilst the relationship between smuggler and smugglee ends right after the former helps the latter reach his/her destination; finally, traffickers are in many cases seen negatively by victims, whereas smugglers are often seen by smugglees as helping and kind, providing a good service to them (Holmes, 2010a: 2-3). Although this positive portrayal of smugglers might strike many of us as odd, considering the enormous flows of smuggled people in the Mediterranean and the cruel methods often employed by smugglers, Jones (2012: 488) explains that smugglees are “generally treated as business allies by their smugglers” and calls smuggling a “voluntary criminal transaction” (Jones, 2012: 488) focusing on the common goal of both parties, meaning the illegal crossing of borders.

Still, there are unclear borderline cases, adding further confusion. Sometimes, what starts as smuggling, ends up being transformed into trafficking (Home Office, 2016a: 31-32). This happens when a person is initially deceived as to the perpetrator’s intentions, led to believe that he/she is being smuggled to the destination country, but instead, ends up in an exploitative trafficking situation by a trafficker pretending to be a smuggler (Home Office, 2016a: 31-32). Srikantiah (2007) agrees that many cases fall between the clearly defined concepts of “smuggled individual” and “trafficking victim” and highlights the various grey zones in the spectrum between these two extremes. For instance, cases in which individuals started off as smugglees, despite how they knew there is a high probability of them ending up in exploitative situations, but accepted this risk hoping for a better life (Srikantiah, 2007). These blurred cases might cause confusion and require increased attention by local authorities in destination states, which must be well-trained and alert to correctly assess the situation.

## **2.4 The National Referral Mechanism**

The European answer to human trafficking and the means to apply the above legislation in Europe is called National Referral Mechanism and has its roots in the *Trafficking Convention* and the OSCE’s NRM Handbook. The OSCE (2004: 8) views trafficking as a “serious violation of human rights and...a threat to security” promoting a human rights-based approach beyond the viewing of trafficking as just a criminal activity. The OSCE (2001) recommends the creation of NRMs and cooperation among participating States. The NRM is defined as:



“...a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society” (OSCE, 2004: 15)

The OSCE (2004) describes how an NRM should operate, what services it should provide to victims and how domestic legislations should design an effective Mechanism adhering to victims’ best interests. A comprehensive structure of the NRM is provided in Appendix 2. The NRM handbook, recognising each State’s unique landscape, sets out the key parameters for an NRM, which will, however, be tailored to each State’s particularities. Thus, the above structure can vary among States, but the key components remain the same: a National Co-ordinator, meaning a high rank governmental official and a group of stakeholders called “roundtable”, consisting of governmental agency officials and civil society proposing policies and changes, with co-operation and multi-disciplinary approach being at the centre of any NRM (OSCE, 2004: 15, 23). As regards the NRM process, identification is not a one-off straightforward action, but can take time, is highly complex and requires trust and ongoing support for the victim to open up, admit his/her status and give details of his/her trafficking experience (OSCE: 17). It is a process, which the OSCE endorses to be open not just to Police, but also to organisations, outreach workers and hotlines, which should also be able to act as first responders identifying potential victims (OSCE, 2004: 60). Following identification, potential victims are handed over from law enforcement authorities to relevant NGOs for support (OSCE, 2004: 65). Support consists of three components: financial support, accommodation, meaning a safe house separately designed for men, women and underage victims and finally a broad range of specialised services, including counselling, legal aid, vocational training and employment support (OSCE, 2004: 69-79). The OSCE realises that permanent residency to the destination country will occur in a limited number of cases and only if that promotes the victim’s interests (OSCE, 2004: 80-83). Therefore, the OSCE calls for a careful examination of the repatriation process, so that it can be conducted in the safest way for survivors (OSCE, 2004: 80-83). It advocates a close examination of the origin country’s situation, especially regarding potential endangerment of the survivor (e.g. re-trafficking risk), close cooperation between destination and origin country to ensure the survivor will be socially included in their home country and participation of international organisations (e.g. IOM) to safeguard the repatriation process (OSCE, 2004: 80-83). Now, I shall examine the UK legislation and the UK NRM.

## 2.5 The UK Response

Responsibility is distributed in a very interesting way among the UK jurisdictions, with the NRM being a UK-wide mechanism and Westminster passing the *Modern Slavery Act 2015*, whilst Scotland and Northern Ireland have their own separate legislation, mainly due to pre-existing differences in their criminal procedures.

### *i) The UK legislation*

Firstly, the *Modern Slavery Act* contains definitions for slavery, servitude and forced or compulsory labour in section 1 and human trafficking in section 2 (“A person commits an offence if the person arranges or facilitates the travel of another person (“V”) with a view to V being exploited”). It talks about the victim’s consent, which even if exists, does not decriminalise the trafficker’s behaviour. S.3 gives details on exploitation forms. The penalties for committing an act of human trafficking or slavery is “(a) on conviction on indictment, to imprisonment for life; (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both” (s.5). As the Crown Prosecution Service states:

“This is an either-way offence and on summary conviction is subject to twelve months’ imprisonment and/or unlimited fine. On conviction on indictment, it is life imprisonment. The offence is also a “lifestyle offence” for the purposes of the Proceeds of Crime Act 2002. As the offence is likely to lead to a significant sentence on conviction all cases should be tried in the Crown Court.” (CPS, 2020)

This Act introduces the slavery and trafficking reparation orders for a person convicted of a trafficking/slavery offence (s.8), which constitutes an order to pay compensation to the victim (s.9). Slavery and trafficking prevention (‘STPOs’) and risk orders (‘STROs’) impose prohibitions on the offender decided by Court, which must always choose the absolutely necessary ones for public protection (CPS, 2020). The range of prohibitions is wide and concerns certain forms of employment (e.g. working with children or other vulnerable people), prohibitions on foreign travel or restrictions on visiting certain areas (e.g. residence of the victim) (Home Office, 2017a: 16). Duration is set in the Court Order, with the minimum being 5 years for STPOs and 2 years for STROs (Home Office, 2017a: 16).

S.45 introduces the statutory defence for victims compelled to commit an offence themselves. This applies to adult victims and persons under the age of 18 who committed the act as a “direct consequence of the person being, or having been, a victim of slavery or a victim of relevant exploitation”. For adults, this compulsion is directly related to their trafficking situation and exploitation, while for both adults and children, a reasonable person under the same circumstances would have acted in the exact same way. The Defendant must bring forward evidence to notify the court that he/she was a trafficking/slavery victim. Therefore, s.45 places an “evidential burden upon the Defendant” and if the “Defendant succeeds in discharging the evidential burden, then the legal burden falls upon the prosecution to disprove the defence beyond reasonable doubt” (CPS, 2020). If and when the Defendant claims he/she is under 18, the burden falls on the prosecution to prove beyond reasonable doubt that the defendant is an adult (CPS, 2020).

Finally, s.54 entitled “Transparency in supply chains” obliges companies and commercial organisations supplying goods or services and carrying on a business or part of it in the UK with an annual turnover of at least £36 million to produce a slavery and human trafficking statement every financial year. The statement, according to s.54, must set out the organisation’s structure (business and supply chains), its policies and due diligence processes regarding slavery/trafficking, the parts of its business and supply chains at risk of slavery/trafficking, along with the steps the company has taken to tackle this risk, the effectiveness of its anti-trafficking/anti-slavery efforts and finally the relevant training available to staff.

The *Human Trafficking and Exploitation (Scotland) Act 2015* defines trafficking similarly as the “recruitment, transportation or transfer, harbouring or receiving or exchange or transfer of control of another person for the purposes of exploiting them. The arrangement and facilitation of these actions also constitutes the offence” (Scottish Government, 2017b: 8). The Scottish Act contains the same exploitation forms as the *Modern Slavery Act*, but lists aggravating factors, such as when “the offender is motivated (wholly or partly) by the objective of committing or conspiring to commit” (s.5, par.2), when a child is involved as victim or a public official as perpetrator (s.6 and s.7). The Scottish Act introduces the Trafficking and Exploitation Prevention Order (‘TEPO’) and the Trafficking and Exploitation Risk Order (‘TERO’), the Scottish equivalents to STPOs and STROs.

S.9 instructs the Scottish Ministers to secure support for trafficking victims with a positive RGD until issuance of the conclusive decision or any other time specified by the Ministers. Forms of

assistance according to s.9 ss.4 are accommodation, medical help, counselling, legal aid and repatriation. Scottish Ministers are also responsible for issuing a Trafficking and Exploitation Strategy, which will refer to the actions for raising awareness, the arrangements to strengthen prevention and the anti-trafficking fight, as well as detail the support for adults and children who are or appear to be victims (s.35).

Finally, the *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015* contains many similar provisions to the other two Acts, but in many ways is more analytical. It adds a more complete array of aggravating factors in s.6, such as when the crime has been committed by a public official, a family member, a person in a position of trust, against a child or vulnerable adult, when the act endangers the victim's life or is committed with the use of threats against the victim's family. Previous conviction for the same offence is also taken into consideration. The Northern Irish Act introduces a separate offence for forced marriage (s.16) and contains more comprehensive provisions on the protection of victims from secondary victimisation in criminal investigations, such as avoiding unnecessary repetition of interviews, visual contact between accused and victim or unnecessary questioning on the victim's private life and special measures for minor victims (s.23). It also introduces the STROs (s.10 and schedule 2) and STPOs (s.3 and schedule 3).

## *ii) The UK NRM*

Introduced in 2009, the NRM is used to support slavery/trafficking victims. From July 2015, in England and Wales potential victims of slavery, servitude and forced or compulsory labour started having access to support previously offered only to potential trafficking victims, while in Northern Ireland this support was extended to slavery victims from March 2016 and in Scotland from April 2018 (Home Office, 2020a). The NRM recently undertook significant reforms ('the 2017 NRM reforms'), with the most important one being the elimination of the two deciding bodies (CAs) and the establishment of the Single Competent Authority (SCA) in 2019, two years after the start of my research project. Therefore, I deem it necessary to present both the former system and the reforms, which led to the new NRM.

The NRM is characterised by a two-stage decision-making process: the reasonable grounds decision (RGD) on whether the person is a potential slavery/trafficking victim and the conclusive grounds decision (CGD) on whether the person is actually a victim or not (Home Office, 2019b:

15-16). Before the reforms, these decisions were made by the two CAs, the NCA's Modern Slavery and Human Trafficking Unit ('MSHTU') and the Home Office Visas and Immigration ('UKVI') (Home Office, 2019b: 17), whilst after the reforms solely by the SCA, which was launched on 29/04/2019 and sits within the Home Office's Serious and Organised Crime Directorate ('SOCA'), dealing with all victims irrespective of origin country (Home Office, 2019c: 12-13).

Specifically listed first responders include the Home Office, Local authorities, Health and Social Care Trusts, Police, POPPY Project, NCA, Trafficking Awareness Raising Alliance ('TARA'), Migrant Help, Kalayaan, Gangmasters and Labour Abuse Authority ('GLAA'), Medaille Trust, Salvation Army, Barnardo's, National Society for the Prevention of Cruelty to Children, Unseen UK, New Pathways, BAWSO and the Refugee Council (Home Office, 2019b: 18, 2020a, 2020b). Before the reforms, the agencies that came in contact with potential victims had to fill out an NRM form referring the case to the MSHTU (Home Office, 2019b: 18). Then, depending on the individual's nationality, the MSHTU would either keep the case, if it involved a UK/EEA national making the RGDs and CGDs itself or pass it on to UKVI, if an EEA or non-EEA national subject to immigration control was involved (Home Office, 2019b). Now, all referrals go to the SCA. Furthermore, in England and Wales, the first responder has to fill out an MS1 form (MS stands for Modern Slavery) fulfilling his/her duty to notify the Home Office, if a potential adult victim does not consent to be referred to the NRM (Home Office, 2020a). Legislative implementation of this duty for Scotland will take place in April 2021 at the earliest (Scottish Government, 2020).

Both before and after reforms, the CA has to firstly make an RGD. This decision takes place - ideally- within 5 working days from the day the referral was received, with the CA (now SCA) being able to ask for more information from the first responder that submitted the referral or the relevant NGO (Home Office 2019b: 48-49, 2020c: 48). The reasonable grounds test is based on the "suspect but cannot prove" low threshold of proof, which means that the CA suspects the person's victimisation status, but cannot prove it (Home Office 2019b: 48-49, 2020c: 48).

If the decision confirms that the person is believed to be a victim on reasonable grounds, then he/she is given a place within Government-funded safe house accommodation, if required, and at least 45 days as a reflection and recovery period in England, Wales and Northern Ireland and 90 days in Scotland or "until a conclusive grounds decision is made, whichever comes sooner" (Home Office 2020a, 2020b, 2020c) during which the person receives support and the CA (now

SCA) has time to gather more information to make its final decision. Potential victims are handled by NGOs: Salvation Army in England and Wales, TARA (dealing with cases of females potentially trafficked for sexual exploitation) and Migrant Help (dealing with all the rest) in Scotland and Women's Aid and Migrant Help in Northern Ireland (Home Office 2020a, 2020b).

The CGD is made 'on the balance of probabilities'. The CA must examine whether there are sufficient grounds to decide that the person beforehand is a trafficking victim (Home Office 2019b: 62, 2020c: 48). This threshold is higher than the reasonable grounds one, but lower than the criminal standard of proof, meaning the "beyond all reasonable doubt" test (Home Office, 2019b: 84). Before a negative RGD or CGD, the CA (now SCA) has to liaise and discuss with relevant authorities, including local authorities, police or support providers (Home Office 2019b: 51, 71, 2020c: 115). Under the old system, any support offered during recovery and reflection period had to stop immediately following a negative conclusive decision (Home Office, 2019b: 71). Following reforms, Multi-Agency Assurance Panels ('MAAPs') composed of representatives from law enforcement agencies, local authorities and relevant NGOs review all negative CGDs and can ask the SCA to review a case (Home Office, 2020c: 48, 118). Additionally, after a negative CGD, an individual now receives 9 working days of move-on support, whilst after a positive CGD, he/she receives at least 45 calendar days of move-on support and the SCA will automatically decide over the grant of Discretionary Leave to Remain ('DLR'), with victims also considered for DLR when they assist investigations as witnesses (Home Office 2019c: 15, 2020c: 48, 50, 158). As the Home Office (2019c: 63) says "a positive conclusive grounds decision does not result in an automatic grant of immigration leave" and a "person will not qualify for DLR solely because they have been identified as a victim of modern slavery" (Home Office, 2018b: 6), but the SCA "will consider whether a grant of discretionary leave is appropriate following a positive conclusive grounds decision" (Home Office, 2019c: 63), while "there must be reasons based on their individual circumstances to justify a grant of DLR where they do not qualify for other leave such as asylum or humanitarian protection" (Home Office, 2018b: 6). DLR is granted on specific reasons, including personal circumstances (usually health issues), pursuing compensation or assisting police with investigations (Home Office, 2018b).

Summarising the NRM reforms announced in October 2017 by the UK government to increase the speed and quality of the decision-making process and improve support and identification so that victims' confidence in the system is boosted, these initially included: the creation of the SCA sitting within the Home Office but separately from immigration to deal with all victims irrespective of origin country; the digital NRM replacing the 'pen-and-paper' system; the

establishment of an independent panel of experts reviewing all negative conclusive decisions scrutinising the quality of the decision-making process; the extension of the 'move-on' support period (the period after a conclusive decision) from 14 to 45 days for those with a positive and from 2 to 9 for those with a negative conclusive decision; a drop-in support service for all confirmed victims with leave to remain for up to 6 months after leaving government-funded support; the establishment of minimum standards of care included in contracts with support providers; the issuance of statutory guidance for the provided support; the strengthening of the Independent Child Trafficking Advocates; and the review of first responders' training standards.

## **2.6 Critical Review of the UK Legislation and the NRM**

The UK approach to slavery/trafficking and the NRM have been criticised by NGOs, scholars, authorities and governmental agencies, such as the IASC or the Home Office. Firstly, I am going to conduct a critical review of the UK legislation in force and then of the NRM based on literature, which allegedly supports that the NRM is not achieving its original goals and functions in a way that largely disregards victims' interests.

### *i) Critical review of the UK legislation*

The most significant difference between the Acts is the support provided to victims. The *Modern Slavery Act* (s.49-50) instructs the Secretary of State to issue guidance and regulations on identifying and supporting victims. The *Scottish Act* (s.9-11) instructs the Scottish Ministers to secure the provision of support, but also makes direct reference to specific forms of support, such as accommodation, medical and psychological aid or legal aid. The *Northern Irish Act* (s.18) also directly refers to forms of support, with specific guidelines on support issued by the DoJ. As the ATMG (2016: 46) says, the Scottish and Northern Irish Acts adhere more faithfully to the *Trafficking Directive* and *Convention* compared to the *Modern Slavery Act*, whilst the Northern Irish Act mentions that help should be tailored to each victim's needs. The key principles of the *Trafficking Directive* and *ECAT*, which are the state's duty to identify and help victims, the minimum support provided, the time and duration of support and measures including the tailored character of support irrespective of the victim's cooperation with authorities

as a witness, have been adopted more successfully by Scotland and Northern Ireland than Westminster, according to the ATMG (2016: 43-46). This is because the Scottish and Northern Irish Acts both include explicit provisions on support principles, unlike the *Modern Slavery Act*, which does not impose a duty on the State to support victims, but only instructs the Secretary of State to issue relevant guidelines, which he/she can revise (ATMG, 2016: 46). Therefore, victims can rely directly on the Scottish and Northern Irish Act for support based on their statutory entitlements, unlike the *Modern Slavery Act*, which leaves victims in a more uncertain and unprotected state.

As regards statutory defence, both the *Trafficking Convention* (art.26) and the *Trafficking Directive* (art.8) establish the principle of non-punishment/prosecution for victims. The *Modern Slavery Act* (s.45) contains the provision of statutory defence, with Schedule 4 containing exceptions, which can be amended by the Secretary of State. S.22 of the Northern Irish Act contains similar provisions. Subsection 9 mentions that statutory defence applies only to a criminal act with a maximum sentence of less than five years and to specifically listed acts, which have some connection to the trafficking situation. The Scottish Act, though, does not contain a similar provision. Section 8 orders the Lord Advocate to issue instructions on the prosecution of victims. The instructions issued by the Lord Advocate do not contain exclusions to statutory defence (ATMG, 2016: 65-66). As the Lord Advocate says, all cases in which the suspects have been identified as slavery/trafficking victims “must be reported to the National Lead Prosecutor for Human Trafficking and Exploitation for a final decision to be made” (ATMG, 2016: 66). If the person is over 18, has committed an offence and there is solid information that this person is a trafficking/slavery victim, has been compelled to commit this crime and this compulsion is related directly to his/her victimisation, then there is a strong presumption against prosecution (ATMG, 2016: 67). The same standards, except for the compulsion criteria, apply for minors (ATMG, 2016: 66).

The *Modern Slavery Act 2015* was reviewed independently by RT Hon Frank Field MP, Baroness Elizabeth Butler-Sloss and Maria Miller MP along with their team of experts. Key findings included: the role of the IASC is not as independent to the UK Government as it should be, contrastingly being “heavily influenced and constricted” by it; the IASC should be appointed by a sponsoring Secretary of State other than the Home Secretary and have more access to governmental data; poor practice related to IASC’s budget; lack of penalties for companies not publishing trafficking statements, while public sector was also found not producing such statements; lack of use of Reparation Orders; need to enforce mandatory training on slavery to



criminal justice agents and issue guidance on the use of statutory defence to avoid cases of false victims using this beneficial provision; suggestion to change the NRM's name by stakeholders interviewed, so that the new name better reflects what the Mechanism actually offers, which is identification, support and protection of victims; lack of organised help and support post-NRM; lack of data on victims exiting the NRM; and need to re-examine the UK's legal framework on prostitution and how that might be serving as a trafficking facilitator (Home Office, 2019d: 13-20, 22-3). Some of these issues are related not just to legislation, but also to how the NRM operates and they are analysed in more depth in the following subsection.

An interesting legislative development was the *Modern Slavery (Victim Support) Bill [HL] 2017-19* ('*Lord McColl's Bill*'). In s.48A, *Lord McColl's Bill* legally guaranteed the provision of support and assistance to slavery/trafficking victims going through the NRM, which are currently non-statutory entitlements. S.48B of the Bill extended this support for 12 more months after the day in which the support provided by s.48A ends, meaning that a victim with a positive conclusive decision could automatically remain for another year in the UK receiving assistance. This assistance, according to s.48C, would not depend on the willingness of the person to cooperate or be involved as a witness in criminal proceedings and would be given upon the victim's consent, ensuring the person's safety and protection and aiming to meet their specific needs and vulnerabilities adhering to the assistance plan in place for the individual.

The University of Nottingham's Rights Lab (2019) produced a costs-and-benefits analysis of the Bill's provision to extend the support offered within the NRM process to adult victims with a positive CGD for a period of 12 months post-NRM, estimating direct and indirect economic benefits of £24.8m to £39.8m. Direct benefits concern homelessness relief and better prospects of employability, with unquantified or indirect benefits including accommodation, health advice and treatment, long-term recovery, increased effectiveness of criminal proceedings, subsequent rise of successful convictions and fall in re-trafficking (University of Nottingham, 2019). On the other hand, the cost of giving assistance to all confirmed victims post-NRM, in the form of accommodation, subsistence and financial assistance (e.g. Universal Credit) would be in the region of £13.2m-16.1m (University of Nottingham, 2019). Therefore, the Bill's implementation could benefit the criminal justice system and over 1,000 victims annually in the long run regarding support, future prospects and their reintegration to society. However, the Bill failed to complete its passage through Parliament before the end of the session and will make no further progress (UK Parliament, 2020a).

## *ii) Critical review of the NRM*

Several allegations have been voiced against the Mechanism. As regards its provisions to potential victims, the IASC (2017: 1) claimed that the NRM cannot respond efficiently to the whole range of victims' needs, pinpointing the lack of coordination and cooperation among agencies and the lack of control and accountability mechanisms. The IASC (2017: 2) added that even if the budget invested is already high, this is still not enough, underlining the need for a more profound change, "a more coordinated approach [that] would deliver better value for money" and a more intelligence-led approach.

Serious issues have been noted with first responders and their identification skills, which are developed through a poor or even non-existent training process, causing them to miss many genuine cases. The Home Office, in its Interim Review of the NRM, found issues of victims' misidentification by authorities and lack of consistency in identification (Home Office, 2014a: 3). Many victims reject their status as such preferring to stay with their trafficker, the Home Office (2014a: 3) says. This makes the efforts of first responders even harder. The Review adds that the completion of the NRM form by first responders is often a "clumsy and ill-timed" process, taking place at an inappropriate and very early stage, without attention to detail (Home Office, 2014a: 4). There were problems with many first responders' training, level of awareness and intelligence-gathering skills (Home Office, 2014a: 5-6). One out of ten NRM forms contained mistakes (usually unsigned) and had to return to first responders, whilst many forms were found to have inadequate information impeding the smooth and successful progress of the referral, along with the identification and decision-making process (Home Office, 2014a: 4). The Scottish Government (2017b: 14) recognised the need for better training of first responders and a better identification process. As the Home Office (2014a: 5) suggested, it would be helpful for first responders to receive feedback on their referrals and the results of each case they handled to avoid repeating their mistakes. Training must also help them realise that their role is not just to refer a case, but also to gather as much information as possible helping the decision-making process (Home Office, 2014a: 5). Discussing the poor identification skills of many first responders, Malloch (2016) underlined how the inadequate training they receive often leads to wrongful punishment and prosecution of many trafficking victims. In fact, Malloch (2016) argues that in Scotland more trafficking victims than traffickers are in prison.

Responding to the above, the Home Office implemented online training resources for first responders. The Home Office (2020d) in its Covid-19 support guidance provides links to several

online training resources, which vary according to the UK nation the first responder is located in, including the Anti-Slavery Partnership Toolkit (2018) built by the University of Nottingham in collaboration with the IASC, NIDirect government services (2020a, 2020b) and Migration Scotland (2019). A centralised e-training module powered by the Home Office<sup>3</sup> is provided by the National Police Chiefs' Council (NPCC Modern Slavery and Organised Immigration Crime Unit, 2020), which "provides guidance on how to spot the signs of modern slavery, and what to do when you come across a potential victim of modern slavery" and "aims to give you confidence to follow procedures swiftly and with compassion". Still, the literature critiquing first responders' training, along with the aforementioned changes implemented by the Home Office in response to that critique affirm the existence of issues here, which beg more research.

Regarding the quality, level and duration of the provided support, the Human Trafficking Foundation, along with other co-authoring foundations and organisations (HTF et al., 2017: 1), claim that the NRM provides inadequate support to victims that ends suddenly and very early, whilst there is also poor data on victims after their involvement with the NRM. The process, as reviewed by HTF et al. (2017: 1), was found to do little and in a non-tailored way to actually help victims with reintegration, instead leaving them unprotected, thus facilitating their re-trafficking.

The IASC is also sceptical about the NRM's operation, stating that "the current NRM is therefore no longer able to fully respond to the crime and cater for the multiple, complex needs of victims of modern slavery, despite recent advancement of efforts to fight modern slavery by the UK Government" (IASC, 2017: 1). They call for more focus on the victims' status before entering the NRM and more attention to how they are left after it, as this will help get a more accurate picture of the problem (IASC, 2017: 2). The NRM is "a system that finds victims of modern day slavery, only to abandon them", the HTF (2016: 2) adds. The UK spends a large sum of money supporting victims, only to abruptly stop doing so at the end of the recovery period, even if the person receives a positive CGD (HTF, 2016: 2). This hinders victims' compensation claims and cooperation with authorities, as well as increases the danger of not addressing their crucial physical and psychological needs, leading to further traumatisation and risk of re-trafficking (HTF et al., 2017: 7- 8).

Victims that have gone through the NRM process have also expressed various concerns and complaints. The most serious and common ones include lack of suitable accommodation and priority for housing, lack of care and support after the reflection period and lack of a stable

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<sup>3</sup> <https://policingslavery.co.uk/FirstResponderTraining/>

immigration status compared to refugees, who upon recognition are granted five-year leave to remain in Britain (HTF, 2016: 4-5).

As regards housing, non-EU victims usually apply for asylum, trying to find accommodation through that route, whilst accommodation support for EU/EEA victims has been seriously reduced after the *Housing Benefit (Habitual Residence) Amendment Regulations 2014* with many of them being in danger of homelessness (IASC, 2017: 6). Regarding immigration status, as the Home Office (2016b: 72) stated and as noted above, a positive conclusive decision does not mean that victims get DLR automatically, but only that the SCA will be automatically responsible for deciding on this and only for reasons attributed to personal circumstances (meaning health problems as the IASC [2017: 6] explains), pursuance of compensation or assisting police with investigations (Home Office 2018b, 2020c). The IASC appears troubled by this restrictive series of reasons surrounding the grant of DLR, emphasising that when a victim applies for leave based on his/her willingness to cooperate with authorities, the decision is based on the importance of evidence he/she can provide (IASC, 2017: 6). The UK system on asylum and immigration, often used by non-UK/EU victims, may prove to be equally traumatising for the already vulnerable victims and may lead to further/secondary victimisation due to how it balances between the need for victims' protection and treatment and the need to appear tough against irregular immigration protecting Britain's borders (Doherty and Morley, 2016: 132).

Regarding compensation, the *Trafficking Directive* says that "Member States shall ensure that victims of trafficking...have access to existing schemes of compensation to victims of violent crimes of intent" (art.17). However, achieving compensation in the UK can prove to be difficult. According to research carried out by Focus on Labour Exploitation ('FLEX') on the *Modern Slavery Act*, the total amount of compensation paid to trafficking victims over the period 2004-2014 was only £70k and the number of compensation orders 8, a small figure compared to this period's convictions for human trafficking (FLEX, 2016: 7). The *Modern Slavery Act* contains a provision for slavery and trafficking reparation orders, according to which, courts may make such an order when a person has been convicted of slavery, trafficking, servitude or forced labour or if he/she has committed an offence with the intention to commit human trafficking. As FLEX (2016: 5) says, this need for a person to be convicted under the *Modern Slavery Act* so that the victim can claim compensation through a slavery and trafficking reparation order, makes compensation very difficult to achieve. FLEX mentions four other ways to compensation: compensation order under the *Powers of the Criminal Courts (Sentencing) Act 2000*, the

Criminal Injuries Compensation Authority ('CICA') Claim, the Employment Tribunals for violations of employment laws and regulations or the civil claim, meaning a claim based on civil law actions, such as "harassment, false imprisonment, fraud, assault, intimidation or breach of contract" or under the *Human Rights Act 1998* against the UK or a UK public body for violations (FLEX, 2016: 9-10). Still, as FLEX (2016: 10) emphasises, these are general tools, not specifically made for trafficking offences and leave a range of slavery/trafficking victims unprotected.

Lack of effective compensation (FLEX, 2016) along with the very low rate of subsistence support provided to victims worsens the situation for trafficking/slavery survivors going through the NRM. The effort of the UK Government in March 2018 to reduce subsistence, meaning the weekly cash amount payable by 42% from £65 to £37.75 and the court decision under number [2018] EWHC 2951 (Admin) quashing that reduction, showed that the problems surrounding the NRM continue.

Moreover, the statistics presented in Tables 1 and 2 showed that non-UK/EU victims face more delays in their decision-making process and lower chances of obtaining positive conclusive decisions compared to UK/EU survivors. This led Craig (2017: 23) talk about racist practices of the NRM, with the ATMG (2013) confirming an alarming discrepancy in the treatment of victims based on origin and a general favouritism of British/European victims. This will most likely change, the ATMG (2017) fears, due to Brexit which is bound to negatively affect European victims too (ATMG, 2017).

Additionally, the move-on post-NRM period was also considered problematic, as evidenced by the legal dispute on the recent NRM move-on period reform. This was initially extended from 14 to 45 days, but was still not deemed enough for survivors and their needs. It was accused of violating the *Trafficking Convention*, the *Trafficking Directive* and art.4, 14 and Protocol 1 of the *European Convention on Human Rights* (Duncan Lewis Solicitors, 2019). The argument of the two claimants represented by Duncan Lewis Solicitors (2019) was that the 45-day blanket move-on period and therefore the fixed end-date after which all support would cease, was violating the above legislation on the basis that support should continue according to each victim's individual needs and until the victim no longer needs it. Time should not be a criterion for cutting off support, while "the temporal ambit of Article 12 ECAT is not limited to the period before a positive conclusive grounds decision" (Duncan Lewis Solicitors, 2019). The outcome was a settlement between the Secretary of State and the claimants, while the Home Office

conceded that the blanket 45-day move-on period provision is “unlawful and incompatible with the Trafficking Convention and that support should be provided in reference to the individual’s needs rather than by any reference to how long the individual has been supported” (Duncan Lewis Solicitors, 2019). Consequently, as seen above, the latest guidance by the Home Office (2020c: 50) instructs that victims with a positive CGD will receive at least 45 calendar days of post-NRM support, whilst those with a negative CGD will receive 9 working days of move-on support and may apply to extend this until they become self-supporting or can access other forms of support.

Overall, Laird (2016) states that GRETA supports a human-rights approach to trafficking, which entails the adoption of effective measures for the prevention of trafficking and the protection of victims with emphasis on the human rights violations committed against them instead of victims being criminalised, while prosecution and punishment of perpetrators must be pursued based on strong inter-agency cooperation. However, in Britain, according to Laird (2016), these measures, although advertised, are not taking place and the context is steeped with a lack of cooperation, lack of effective guidance raising awareness, lack of knowledge and proper support. Laird (2016) places increased emphasis on human rights, care and protection of victims stating that, despite the UK giving more days for recovery/reflection than the *Trafficking Convention*, this does not guarantee better practice, as he still deems the days provided to be inadequate for effective trauma healing. Jobe (2010) summarises that the UK’s main problem is how victims are wrongly viewed as immigrants and dealt with through the criminal justice system, while in fact they should have been viewed as survivors of human rights violations.

Due to the NRM’s weaknesses, several suggestions for improvements have been made. HTF et al. (2017: 6) underline the need for properly and specially trained first responders, who will have the ability to identify victims, accurately inform them and gather all the intelligence needed for the NRM. The IASC (2017: 4-5) suggests a new one-stage NRM process with only one decision taken by a fully accountable panel of experts, instead of the problematic two-stage process, which puts an unjustified and unprecedented burden on the victim to prove his/her status as such, a burden not existing in any other crime. HTF et al. also (2017: 5) emphasise the need for a decision panel consisting of experts, which must additionally examine and identify any ongoing victims’ needs, such as the need for psychological or medical help, education or assistance in parenting. Moreover, HTF et al. (2017: 2-3) advocate in favour of free legal aid, assigning a case worker for each victim with a positive RGD and guaranteeing safe house

accommodation with flexible move-in and move-out dates to which victims must be entitled until the conclusive decision.

The IASC suggests an extension of the support given before the RGD and after the CGD (IASC, 2017: 4). The Scottish and Northern Irish Acts have provisions allowing the extension of help beyond the time frame set by the two decisions. The Commissioner (IASC, 2017: 4) strongly feels that this practice should be extended all over Britain, as it allows more flexibility and fuller support based on each victim's needs. After being identified, a victim needs to be transferred to safe accommodation (IASC, 2017: 5). HTF (2016: 16) strongly suggests that trafficking victims should be prioritised for National Asylum Support Service ('NASS') and local authority/council accommodation.

Regarding the duration of support, this should continue even after the conclusive decision, aiming towards a more successful reintegration (IASC, 2017: 5). "A positive conclusive grounds decision must carry status", HTF et al. (2017: 2) support, since even if the victim receives a positive final decision, his/her status does not change much for the better. As seen earlier, problems with the move-on period and support were noted, while the victim receives DLR only based on specific reasons. HTF et al. (2017: 2) recommend that a positive CGD should lead to a "meaningful rehabilitation period" and a residence permit of at least one year, with the victim retaining his/her right to repatriation. Abruptly ending the rehabilitation process and support after a positive CGD, exacerbates the risk of re-trafficking and stands in contrast with the policy on asylum seekers, who upon recognition as refugees are granted a 5-year remain period in the UK and the opportunity to apply for Indefinite Leave to Remain at the end of it (HTF et al., 2017: 7). Of course, the protection offered to refugees is based on different grounds and more specifically on the *Geneva Convention* and is offered due to the persecution someone experiences in their origin country, making it impossible for them to live there. The point the HTF makes is not so much based on the impossibility of victims to return home, which could well be the case too and would usually be remedied with a separate asylum application. The HTF claims the above considering the support needs of trafficking victims, based on the violent crime they survived from and the long-term care they require. As the HTF (2016: 5) states, we need to continue treating and caring for victims on a long-term basis, because "otherwise we are simply rescuing victims, only to effectively return them into the hands of a trafficker, after briefly giving them a glimmer of hope". The HTF (2016: 16-17), in its report based on interviews with 30 female trafficking victims, recommends continuous care and support even after the NRM

process and supports a model, in which every victim has an expert carer/worker assigned to him/her, responsible for analysing their specific needs and identifying gaps in the care provided.

Responding to allegations, the UK Government announced the 2017 reforms, which, however, have also been questioned. The establishment of the SCA is a step forward, aiming to reduce the discrepancy in decision outcomes between British/European and international victims. Nonetheless, the lack of an effective appeal process against negative decisions could prove problematic. The latest guidance states that an individual may request reconsideration, but is still “encouraged to approach someone involved in their case”, meaning their first responder or victim care contract support provider (Home Office, 2020c: 50, 129-130). Therefore, the reconsideration request is not within the immediate capacity of the victim, their lawyers or other organisations that might be more closely connected to him/her. This may create unnecessary pressure on the first responder or support provider and further uncertainty to the individual. A positive step is the requirement for the first responder or support provider, who was asked by the individual to file a reconsideration request, but declined, to have SCA approval for this rejection (Home Office, 2020c: 130). Another sign of inadequacy of the reforms is the previously examined dispute on the 45-day ‘move on period’. All the above prove that despite efforts to improve the system, the NRM still has several unresolved issues begging for examination.

## **2.7 Summary**

This chapter provided the legal definitions of human trafficking and other criminal activities often confused with it, presented the legislative framework worldwide and in Britain, critically reviewed the British landscape on human trafficking and therefore eased the reader to the UK context, which is the main focal point of this research. This chapter preceded the literature review because of the many issues surrounding trafficking’s definition, as well as the many points of critique against the UK NRM. The above presentation of the legislative framework helped clarify important definitional issues, especially for the reader who wants to understand in more depth what human trafficking is.

In summary, the main points of criticism based on literature revolve around how the *Modern Slavery Act*, compared to the Scottish and Northern Irish legislation, provides a sketchier and weaker support framework for victims, while the same Act along with the Northern Irish



legislation maintain a more robust statutory defence provision compared to the Scottish Act. Also, the IASC was found to be less independent compared to the OSCE's National Coordinator, whilst there is a lack of penalties for companies that do not adhere to the requirement of producing annual trafficking statements. As for the NRM, critique focused on the lack of training and identification skills of first responders, the low quality and short duration of support, the lack of suitable accommodation and effective compensation schemes for victims, the uncertainty over international victims' immigration status and the sketchy post-NRM support framework.

The critique against the UK's approach to slavery/trafficking and the problems noted by various sources, which persist despite the ongoing reforms, evidently call for a closer examination of the UK's anti-trafficking response/framework, its continuing issues and the driving factors behind them. Chapter 3 will present the literature on trafficking and the gaps justifying my research, along with my analytical framework and research aims.

## Chapter 3

### Literature Review

#### 3.1 Introduction

This chapter will present the literature on human trafficking, along with a discussion on the spectrum regarding victims, traffickers and the trafficking experience. I will also discuss broader issues, which interplay with trafficking and influence state policymaking on this issue, including prostitution, labour regulations and immigration, which I consider to be the main overarching issue framing how trafficking is being regulated. Based on that, I will attempt to build my analytical framework to examine how trafficking is regulated in the UK. This framework is going to pay respect to the contemporary criminological discourse on trafficking and immigration, but also distance itself from it, trying to combine the knowledge gained by the *globalised critical criminology* -a term I use to denote the various streams of the contemporary criminology studying immigration- and its trafficking-related branch of thought with a more realistic understanding of how states operate and how complex policymaking is. For my critique towards contemporary criminology on immigration and its theoretical branch on trafficking, I will use, among other notions, a series of International Relations theories and the concept of conflict of rights to illustrate the complexities behind policymaking and the conflicting needs states have to fulfil when legislating. I will then present the questions created, which drive my research and how I intend to examine them. By the end of this chapter, the context, questions, justification and research aims, along with my framework of thought and analysis will become clear to the reader.

#### 3.2 The Micro-Level Analysis of Human Trafficking

The legislation analysis touched upon the complexities around establishing a definition of trafficking and the blurred boundaries between trafficking, slavery and smuggling. Evidently,

human trafficking is not a simple, straightforward matter, but a *complex, multi-faceted socio-criminal phenomenon* where many angles and grey areas exist. I conclude that the various aspects of trafficking can be summarised in three areas, making human trafficking a *tripartite issue*.

Firstly, it is an issue pertaining to victims, their background and factors driving their lives or choices, the trafficking experience and subsequently their rights and corresponding needs. Secondly, it is an issue related to traffickers, for whom it is equally important to explore their backgrounds, identity, factors influencing their lives and how anti-trafficking responses deal with them. Thirdly, trafficking is an issue related to states (origin, destination and transit) and state-level decisions and policies, while the existence of domestic trafficking cannot be ignored. Looking at the state-level, and particularly the destination state, will help reach important conclusions regarding how states deal with trafficking through their policies and also with broader issues existing beyond trafficking, but still intermingling with it, thus often influencing anti-trafficking responses, such as prostitution, labour regulations or immigration.

This section deals with the micro-level analysis of trafficking, where the victim and trafficker will be examined, whilst the following section will deal with the broader issues of prostitution, labour regulations and immigration looking at their interplay with trafficking. It is worth clarifying that the scope of my focus will examine adult and not underage trafficking victims.

#### *i) The victim and the trafficker*

Human trafficking is seen by many as a purely negative experience for victims or a “multi-stage process of cumulative harm” (Zimmerman, Hossain and Watts, 2011: 327). It is a harmful and traumatising event in a person’s life and can only be compared to torture, according to Doherty and Morley (2016: 121). Most victims come from a background of vulnerability, with traffickers taking advantage of this, employing means such as coercion, violence, threats or juju (supernatural powers attributed to charm or magic) to instil fear upon them (Doherty and Morley, 2016: 122-123).

Trauma is a key concept here. Levenson (2017: 105) says that trauma, according to the American Psychiatric Association (2013), is defined as “an exposure to an extraordinary experience that presents a physical or psychological threat to oneself or others and generates a reaction of helplessness and fear”, with criminal victimisation being a frequent cause of it.

Trauma can lead to Post-Traumatic Stress Disorder ('PTSD'), which may last for a long time after the traumatising event (APA, 2013). Trauma is experienced and expressed differently between people or between different incidents related to the same person. Agaibi and Wilson (2005: 196) state that resilience, the ability to cope with a post-traumatic situation, often depends on "personality traits linked to extraversion, high self-esteem, assertiveness, hardiness, internal locus of control, and cognitive feedback". Resilience, though, is not only a matter of biology (Luthar and Brown, 2007), but is also related to the environment of the person with a background of trauma, thus largely depending on whether that environment possesses the "capacity to facilitate growth" for the individual (Ungar, 2013: 262).

Judge et al. (2018: 658) note that human trafficking is "an egregious human rights violation" resulting in a series of health issues. As Wasserman and Ellis (2007: 1) claim, "the impact of crime on victims results in emotional and psychological, physical, financial, social and spiritual consequences". Shock, low confidence, low self-respect, mistrust towards others (especially authorities), difficulty accepting victimisation, psychosomatic symptoms and PTSD are some of the psychological problems a crime can generally have on a victim (Frieze, Greenberg and Hymer, 1987). Violent crimes, in particular, leave a deeper trauma and human trafficking is a type of crime in which the perpetrator may employ violence, threats or coercion (Wasserman and Ellis, 2007: 2). Doherty and Morley (2016: 123-124) agree, claiming that PTSD, depression, anxiety, loss of appetite, physical pains, memory loss and dizziness are common symptoms, especially on female victims of sex trafficking. These psychological issues pose a serious challenge for the support services impeding engagement of support workers with survivors (Judge et al., 2018). DOS (2018) reinforces these concepts of traumatisation and exploitation, providing stories of survivors worldwide, which show the negative impact that the trafficking experience had on them.

Symptoms and pains of labour trafficking victims have received less attention, despite the increase in investigations in Europe (Europol, 2016). Still, depression and anxiety combined with other complex mental health issues are usually noticed (Doherty and Morley, 2016: 124-125). Labour exploitation concerns predominantly male victims and it is unfortunate that many such cases have gone unreported and understudied, as men suffer greatly and in various ways (Oram et al., 2016). Examples include abuse, rape, excessive workload endangering victims' lives, lack of free movement, medical care, rest and/or hygiene in accommodations, no salary or lower than the one initially agreed and heavy fines (DOS, 2018).

Johnson (2012) summarises how a victim usually thinks and feels. Trafficking survivors are often scared due to pains suffered or threats against their families, are often in “survival mode” being over-dependent on traffickers (Stockholm syndrome), are brutalised, isolated or even brainwashed, feel shame, guilt, worthlessness, dishonoured and stigmatised, often believing that they deserved what happened to them, showing low self-confidence, inability to trust others or even feel feelings, frequently coupled with (self-)doubt and depression (Johnson, 2012: 376-278). Thus, Doherty and Morley (2016) emphasise the need to establish a multiagency-based approach to support survivors, centred on medical and psychological help, proper accommodation and legal aid to foster an environment of trust and safety towards healing and reintegration. Johnson (2012: 371) adds that aftercare services should firstly try and satisfy basic human needs, such as clothing and accommodation, then moving on to more advanced and complex support needs ranging from medical and psychological help to legal services usually regarding their immigration status, protection from prosecutions, financial assistance, language learning, education, vocational training and repatriation and always in a tailored way to each victim’s needs, age and gender.

Any attempt to understand human trafficking, though, has to involve the trafficker too, Surtees (2008: 42) explains. Yet, Weitzer (2014: 17) observes that little attention has been given to traffickers, with existing research showing highly variable results regarding perpetrators’ identity and the whole trafficking experience in general. Feingold (2005: 28) underlines that “there is no standard profile of traffickers”, who can be organised criminals, police officers or opportunistic traffickers, such as “truck drivers and village aunties”. Viuhko (2018: 189) agrees, saying that the profile of many traffickers is a bit more “mundane” than thought. This underlines the spectrum that exists regarding traffickers and their level of organisation. Feingold (2005: 28), focusing on Southeast Asia, a frequent origin area for many victims coming to the UK, as identified in chapter 1, observes that trafficking might be a profitable business, but still does not even come close to drug trafficking, being mostly a “disorganised crime” with organised trafficking criminals or “kingpins” appearing much less frequently than imagined. Feingold (2005: 28) adds that the Japanese *yakuza*, a well-established organised crime ring, is not so much involved in the transportation, but mainly in the purchase of trafficked girls, while Thai organised crime rings tend to become less and less involved in sex trafficking. Various researchers corroborate Feingold’s observations when studying mainly females exploited in prostitution, having found that many survivors were actually recruited by friends or families and therefore

were not coerced, deceived or forced to exploitation by organised criminals (Molland, 2012; Jacobsen and Skilbrei, 2010; Surtees, 2008; Vocks and Nijboer, 2000).

Correspondingly, Weitzer (2014) supports that a similar spectrum exists for victims and their lived experiences. Focusing on labour exploitation, labour immigrants range between those purely deceived regarding the exploitative nature of the work they were ultimately required to do to those who were not deceived at all, but perfectly knew and consented to everything (Weitzer, 2014: 15). Between these extremes, lies a whole range of victims, who partly knew or had consented to something lighter only to be found doing something heavier, which they eventually accepted. This constitutes, as Molland (2012: 100) states, a “very fine line between deception, socialisation and normalisation” of work that had not been initially agreed, but was eventually accepted. Belanger (2014) agrees and in her research on Vietnamese labour trafficked migrants in Asia illustrates how many survivors viewed their whole experience as neutral or positive, showing willingness to take risks or endure exploitation in order to earn a living, therefore prioritising their financial gain. Even in sex trafficking, many female survivors were found to be much more active agents than expected. Chin (2013) showed that financial gain and independence led many Chinese sex workers in Malaysia to choose to engage in prostitution. Jacobsen and Skillbrei’s (2010: 190) findings on Russian female prostitutes in Norway illustrated how these women were motivated to choose prostitution to improve the financial status of themselves and their families, dismissing “the stereotype of the passive victim”. Hussein (2015: 133) concludes that human trafficking is mainly not a form of organised crime, but often an “individual activity” and “consensual agreement”, where a person driven out of his/her country by poverty and lack of viable prospects prefers to reach out to people from his/her community already living in the destination country, who then arrange his/her transportation. These people are then the so-called traffickers, the person consenting to his/her transportation is the victim and the whole episode falls under the human trafficking umbrella. What keeps the exploited individuals actively choosing to continue living under exploitation is the fear of repatriation to the much worse situation they were experiencing back home (Hussein, 2015: 133).

Surtees (2008), in her research on Southern and Eastern Europe, illustrated the spectrum of traffickers ranging from those who did not even know what they were recruiting for, to low-level/opportunistic traffickers, mid-level organised crime groups or highly organised crime rings, while also underlining the fluidity that often exists between the identity of the victim and the trafficker. Some victims who were recruited, but were still unaware they were soon to be

exploited, invited other friends, thus being unintentional recruiters themselves; others were forced or threatened by traffickers to recruit, whilst some made a more active transition from victims to perpetrators “because of this affinity or because they have been desensitised as a result of their own trafficking” (Surtees, 2008: 44-45; Surtees, 2005; Long, 2002). All these combined with the Introduction’s statistics showing that in 2016 or most recently 31% of the persons investigated or arrested for trafficking, 35% of those prosecuted for trafficking and 38% of those convicted for trafficking were female (UNODC, 2018: 35-36), illustrate the frequent fluidity between traffickers and victims, with many survivors crossing the boundary, climbing up the ladder and assuming the former role.

*ii) Deepening the discussion on consent, trauma and vulnerability*

After illustrating the fluidity and the grey areas that exist in trafficking around the concept of consent and prior knowledge, how would we evaluate a case where individuals transported to another country for sexual or labour exploitation, had willingly consented to this exploitation for various reasons, such as to pay off a debt or make a living (Jones, 2012: 497-498)? Should they be protected as trafficking victims or not according to legislation?

The answer is yes and it is given by the *Palermo Protocol*. The trafficking definition does not set the lack of consent as a condition for a person to be considered a trafficking victim. As art.3b of the Palermo Protocol specifies, the victim’s consent is irrelevant, if the means laid out in art.3a have been employed by traffickers. Regarding the case where the person suspects the perpetrator’s intention of exploitation, that might still fit the element of deception. Regarding the case where the person knows and consents to the perpetrator’s intention of exploitation, the *Palermo Protocol* denotes that the act of trafficking is committed “even in cases where the victim is neither threatened, nor forced, nor coerced, nor abducted, nor defrauded, nor deceived” (Hoyle, Bosworth and Dempsey, 2011: 317), but also in cases of “abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”. There is no need for the victim to be coerced, threatened or deceived, as the *Palermo Protocol* has broadened the legal definition of human trafficking to include a wider range of cases, irrespective of whether the victim suspected, knew or consented to their exploitation, as long as any of the means that art.3a cites have been used.

Reflecting on that, we can say that perpetrators are not punished just because there is inequality in the relationship between the slave and the master, to use Hegel's terminology from the Master-Slave dialectic. After all, inequality is the natural result of capitalism and the power relations it entails, Scruton (2017) explains, and "absolute equality, free from the marks of power and domination, is no more than a delusion" (Scruton, 2017: 55). As Siep (2014) illustrates when analysing Hegel, the punishment of slavery and subsequently human trafficking is the "result of the progress of reason and the consciousness of freedom" with Hegel claiming that the transformative change towards abolitionism was Christianity with its teachings on freedom, "the idea of the 'I' and the 'free infinite personality'" (Smith, 1992: 105-106). Slavery and trafficking place a disproportionately heavy burden on the freedom of the individual and treat people as commodities irrespective of their consent. This is why the *Palermo Protocol* definition excludes the lack of consent from the key elements of human trafficking (act, means and intention of exploitation), recognising that even if someone has given their consent, that can often be tainted and the result of an "abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits".

All the above have important implications for our discussion on trafficking victimology. Evidently, the central concept in the trafficking definition is neither consent nor trauma, since, as established, trauma is experienced and expressed differently. The central concept for human trafficking is vulnerability. Before the enactment of the *Care Act 2014*, the No Secrets Home Office (2000: 8) guidance broadly defined the term 'vulnerable adult' as he/she "who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation" with the *Care Act* in s.42 defining the "adult at risk" as he/she who "has needs for care and support, is experiencing, or at risk of, abuse or neglect and as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it". Europol (2016) illustrates the existence of three types of factors driving human trafficking: push factors relating to the origin country (e.g. poverty, war, unemployment), pull factors relating to the destination country (e.g. better prospects, demand for labour, established diaspora communities ethnically similar to the victim's background) and facilitating factors (e.g. social tolerance, lack of established unified legislation and criminal justice cooperation, high profits, low risks). This overarching framework circumvents and feeds on the victim's vulnerability, rendering any consent he/she might have given tainted and skewed. Therefore, the only scenario in which a case is not human trafficking, is when the person "gives his full



consent and is not in a situation of vulnerability” (Martinelli, 2015: 33), as then the consent would be both full and free.

This whole problematisation over whether a person moved to work willingly in exploitative situations, is a victim or not, comes from our wrong perception of the ideal trafficking victim as weak and innocent (O’Brien, 2013: 322-324), which complements our -generally- wrong understanding of the trafficking phenomenon. In their research on West Midlands’ public perceptions regarding human trafficking, Dando, Walsh and Brierley (2016) found that on average 15% of the respondents did not understand why people are trafficked, more than 20% did not know what shapes victims’ vulnerabilities, half the respondents did not know the term “psychological coercion”, 15% had not even heard of the term “human trafficking” before, while the majority of those who had, wrongly believed that trafficking is always a transnational crime. This frames O’Brien’s (2013: 322-324) observations that for many, the victim has to be a pure, blameless figure with respectable behaviour and ambitions, a person who ends up being exploited without having consented. As Lasocik (2010) adds, many trafficking victims are seen with less compassion, because of the common belief that since they knew what they were in for, there is no need to help them. This misconception goes against the definition of trafficking, according to which consent is irrelevant and may be attributed to popular stereotypes surrounding the innocence and purity of trafficking victims. O’Brien (2013: 322-324) blames many awareness campaigns for promoting this image of the ‘ideal victim’ and a binary distinction between innocent/deserving and non-deserving victims that consented to their exploitation. Kinney (2015: 87) notes an increased focus of American media and pop culture on trafficking since the 2000s, with the use of “sensationalistic representations...typified by narratives of captivity, sexual violence, and criminality”.

Haynes (2014: 33-34, 40) illustrates how stereotypes often oversimplify the complexities of the problem disregarding important aspects, promoting “horror stories as typical scenarios” and keeping grey area cases completely in the dark. Haynes (2004) presented the case of Madeleine, a young Moldovan girl trafficked in Bosnia, who was arrested and then imprisoned for prostitution only to be saved by the intervention of the OSCE. Farrell, McDevitt and Fahy (2010) in their U.S.-based study uncovered issues with police authorities, who not only failed to identify victims, but often wrongly labelled them as illegal immigrants. Meeteren and Hiah (2019) found that many labour trafficking victims could not self-identify as such, instead viewing their status as a temporary work situation characterised by poor conditions and a starting point for their careers, which they had actively and willingly chosen. In the UK and especially Scotland,

Malloch (2016) points out the issue of misidentification of trafficking victims, who do not just go unnoticed, but are also often labelled and treated as criminals, charged with illegal immigration or crimes they were forced to commit by traffickers. This issue does not only relate to the binary distinction between the terms guilty and innocent, which Malloch (2016) considers obsolete given trafficking's grey areas, but also to the lack of training of many first responders and particularly police, who are ill-equipped to deal with trafficking's complexities and properly apply the concept of statutory defence. Laird (2016) states that particularly in Scotland, there is a lack of organisation, cooperation and clarification of roles among the various bodies involved, exacerbating the situation for victims and impeding any goals set.

These final observations shift the lens towards the broader issues framing human trafficking, already touched upon above, namely prostitution, labour regulations and immigration, where the focus will now be on the macro-level rather than the micro-level of victims and traffickers.

### **3.3 The Macro-Level Analysis of Human Trafficking**

Trafficking and slavery are matters largely pertaining to how the state regulates other broader issues, such as prostitution, labour or immigration. The first section will deal with how prostitution and labour regulations intermingle with trafficking and anti-trafficking state policies. A separate second section will deal with immigration as a standalone broader issue interplaying with human trafficking. The reason for that is because immigration can concern all categories of exploitation and genders, whilst, as seen in chapter 1, prostitution concerns almost exclusively female victims and labour exploitation concerns mostly male victims. Furthermore, immigration can often be an even broader issue eventually framing the already broad issues of prostitution and labour regulations or at least intermingle and influence them too. Also, a key allegation against the NRM examined in chapter 2, was the close connection between the CAs (now SCA) and the Home Office's immigration services, as well as the discrepancies in delays and positive decisions between UK/EU and non-UK/EU victims. All these justify why immigration constitutes the main focus area of this thesis.

### *i) Prostitution and labour regulations*

To begin, human trafficking can take place for sexual exploitation, meaning prostitution. The global statistics in chapter 1 showed that 94% of sex trafficking victims globally are female (UNODC, 2018: 33). Jennings (2019) illustrates the increased international attention sex trafficking has received and the subsequent rise in funding of the relevant NGOs. Lobasz (2009) discusses the alliance between the Left and the Right in the UN, during the *Palermo Protocol* negotiations, where feminist abolitionists along with American Evangelical Christians sided together in favour of labelling all prostitution as human trafficking and all prostitutes as trafficking victims, based on the notion that prostitution violates women's rights altogether; contrastingly, feminist critics of this abolitionist approach supported legalising prostitution and critiqued many anti-trafficking campaigns for relying too much on misconceptions and stereotypes, therefore ignoring the different experiences regarding prostitution.

Hughes (2000) supports that legalising prostitution correlates to a rise in trafficking to meet the naturally increased demand of such legalisation. Farley (2009: 313) agrees that "wherever prostitution is legalised, trafficking...in that region increases". Whether legalising prostitution will increase trafficking, depends on what plan is enforced, Feingold (2005: 28) replies. In 1999, Sweden penalised male buyers of prostitution but not prostitutes, trying to reduce the numbers of prostitutes in the country by deterring clients and eventually prospective traffickers (Ekberg, 2004). Iceland, Norway, South Korea and South Africa followed the Swedish example (Jeffreys, 2009). Feingold (2005: 28) criticised the Swedish approach, supporting that prohibiting prostitution in general can potentially increase the risk of trafficking and the risk of having more dangerous clients and less safe-sex practices, whilst fully or partly legalising prostitution could actually discourage trafficking by bringing the prostitution industry to light, establishing labour organisations and extending labour regulations and social security to sex workers. Cho, Dreher and Neumayer's (2012) study showed that legalising prostitution can either increase trafficking by increasing the demand for sex services or decrease trafficking by substituting trafficking practices and victims with legal sex workers who legally reside in the country. Their quantitative empirical analysis coupled with a case-study examination of Sweden, Denmark and Germany showed that the most probable path is the former, thus illustrating that banning prostitution altogether can deter and reduce trafficking flows (Cho, Dreher and Neumayer, 2012). Still, they underline how the clandestine nature of both trafficking and prostitution do not allow for hard evidence and safe results, whilst they recognise that legalising prostitution can still have positive effects, such as improving prostitutes' working conditions (Cho, Dreher and Neumayer, 2012:

76). Still, Farrell, McDevitt and Fahy (2010: 206) show how female victims of sex trafficking have been often accused by police as criminals rather than treated as trafficking survivors, which shows the frequent difficulty in identifying victims, the lack of accurate legal knowledge and the potential existence of trafficking stereotypes among practitioners.

Turning to labour/market regulations, as seen in chapter 1, 65% of those trafficked for labour globally are male (UNODC, 2018: 33). One of the most famous incidents related to labour trafficking took place in February 2004 in Morecambe Bay, UK, where 21 Chinese trafficked workers lost their lives picking cockles, subsequently turning the public eye to issues related to immigration, labour regulations, inhumane working conditions and labour abuses. Costello (2015) illustrates how the trafficking definition focuses mostly on transportation, despite the need to broaden the scope, concentrating on how entire supply chains operate, on work conditions, immigration law and whether tightening borders increases trafficking risks by restricting prospective migrants' legal routes, leading them to choose precarious immigration pathways. As Costello (2015: 226) adds, the criminalisation of forced labour is a superficially impressive but ineffective approach and calls for more "positive duties on states to respect, protect and promote human rights" in order to reduce migrants' vulnerabilities. Väyrynen (2003: 20) supports that the interplay between push factors in supply/origin countries and pull factors in destination/demand countries driving migration and the closure of borders in destination states are also responsible for fuelling illegal immigration and trafficking. Väyrynen (2003: 20) advocates that illegal immigration is not monolithically and exclusively connected with trafficking, since many irregular migrants had legally migrated, but simply overstayed in destination countries beyond their visas' expiration date. Costello (2015) calls to concentrate more on supply chains. This was reflected, as seen in chapter 2, in the introduction of the slavery and human trafficking statement by the *Modern Slavery Act* that companies with an annual turnover of at least £36 million have to produce every financial year. Still, the problem is that this provision places an obligation to companies without mentioning penalties for those not complying.

## *ii) Human Trafficking and Immigration – The Ideal Victim and the Evil Trafficker*

Is human trafficking about immigration and, if yes, what does that mean for the destination country and the ways in which it will regulate trafficking? As established in chapter 1, many victims originate from countries different to the destination ones. In Britain, a large number of

domestic victims exists, but also a significant number of foreign ones. The UNODC (2016: 6, 9) recognises the growing number of domestic victims worldwide, but simultaneously pinpoints the significant portion of foreign victims following similar routes to the “regular migrating flows”. The same reality exists for perpetrators. The above analysis on prostitution and labour regulations and how these intermingle with trafficking revealed that immigration cuts through all these concepts and often underpins how these phenomena unfold. For instance, Cho, Dreher and Neumayer (2012) talked about how legalising prostitution can sometimes lead to safeguarding the sex market, restricting it to sex workers legally residing in the country, thus potentially reducing trafficking flows. Simultaneously, labour exploitation often relates to migration, the existence of transnational supply chains, the situation in origin and destination countries and the drivers pushing people out of origin states and pulling them to more developed and prosperous ones. All these, therefore, give us the answer. Trafficking/slavery is not all about immigration, but to a large extent it is about that too.

The low rates of prosecutions and convictions, along with the constant production of estimates showing that trafficking’s dark number remains extremely high, have resulted to an increasingly tough legislation introduced to impose harsher sanctions to traffickers (Haverkamp, Herlin-Karnell and Lernestedt, 2019: 3). Weitzer (2011) claims that even though traffickers’ profiles and the means employed by them are not monolithic, but contrastingly rather fluid, trafficking discourse still tends to revolve around the “oppression paradigm” (Weitzer, 2011: 1337-1338). This happens primarily regarding female victims of sexual exploitation and denotes the existence of an agenda, according to which “sexual commerce [is seen] as institutionalised subordination of women” (Weitzer, 2011: 1338) a view which serves as the basis for establishing tougher anti-prostitution and immigration regulations. Simultaneously, Pirjatanniemi (2019) argues that trafficking victims and especially the most “ideal” and “deserving” ones are usually prioritised and treated better compared to the rest of the migratory population.

In the UK specifically, traffickers are presented by policy discourse as predominantly organised, foreign, transnational criminals, which in turn justifies a more punitive immigration agenda, according to Sharapov (2017: 95, 99). Pirjatanniemi’s (2019) observations are supported by Sharapov’s (2017: 99) findings on how victims’ “naivety and powerlessness”, as promoted in UK policies, serve to prove their status as genuine victims, deserving of our help in contrast to the “non-deserving illegal immigrant”, whilst simultaneously their status as traumatised and scarred further justifies a tougher criminal justice approach against traffickers. Still, the creation of legislative dipoles and binary distinctions between “guilty” and therefore “undeserving” migrants

on one hand and “innocent” and subsequently “deserving” trafficking victims on the other, leads not only to binary distinctions between survivors-traffickers and survivors-illegal immigrants, but also to wrongful criminalisations of many genuine victims, who do not fit in the role model of the innocent, pure and blameless figure, as Malloch (2016) explains. Malloch (2016) pinpoints how trafficking victims are often wrongfully charged with illegal immigration or “survival” offences, including pick-pocketing, forced begging or theft and subsequently imprisoned, a situation, which further impacts upon the trauma caused by their trafficking experience.

The media and the stereotypes they promote not only disregard the grey areas of human trafficking for victims and perpetrators, but also cover up deeper drivers behind trafficking and exploitation, which, according to Kinney (2015), are political, financial and social. Kinney (2015) implies that the common misconceptions and prevalent media images of the criminal migrant and the organised trafficking ringleaders, as well as the alleged purity of victims, who did not suspect or know anything about their victimisation, serve to hide the existence of other deeper factors fuelling trafficking, such as strict immigration policies in destination countries combined with poverty in origin states and the reduction in legal employment opportunities, which subsequently force many to seek alternative, irregular routes to migration and employment. Feeding stereotypes of brutalised trafficked women and children, both the Left and the Right in the U.S., along with their respective teams of celebrities, have advocated in favour of saving innocent victims and mercilessly punishing perpetrators (Kinney, 2015: 87-88).

This distinction brings to mind Christie’s (1986) notion of the “ideal victim” and “ideal offender”. The term “ideal victim” refers to “a person or a category of individuals who -when hit by crime- most readily are given the complete and legitimate status of being a victim” (Christie, 1986: 18). Thus, some categories of people are seen in a more sympathetic way, considered to deserve the label and status of victims more than others. As Christie (1986: 18) explains, the label of the victim has something like a “public status” and is equivalent to popular terms such as “hero” or “traitor” that are equally abstract and often used by media. There are six key characteristics of an “ideal victim”, according to Christie. The victim must be weak, he/she must be doing something respectable, being at a place where he/she cannot be blamed for being there, the perpetrator is “big” and “bad” and the victim did not know the perpetrator prior to his/her victimisation (Christie, 1986: 19). The sixth characteristic is that the person must have enough power, independence and a strong voice to be heard and successfully claim the ideal victim status, but he/she must not have these attributes to such an extent that would have automatically made them strong enough to have had an alternative to victimisation (Christie,

1986: 21). This means that the victim must not be strong enough to pose a threat and be able to avoid becoming a victim in the first place, but they must still have some sort of status and power to be heard and earn the victim's label. Christie (1986: 19) recognises that perfect victims are usually female, who tried to protect themselves but failed, mentioning the example of the old lady who gets robbed and the housewife who gets abused by her husband. The idealised victim is according to Van Dijk (2009) known for their passive character and deserves our forgiveness, compassion and understanding for all their suffering.

The "ideal victim", however, is not alone. He/she has an alter ego or an "ideal offender", Christie (1986: 25) says. "Ideal victims need -and create- ideal offenders. The two are interdependent. The more ideal a victim is, the more ideal becomes the offender. The more ideal the offender, the more ideal is the victim" (Christie, 1986: 25). Like the two faces of Janus or superheroes and villains in comic books, where we have the perfectly good, moral and ideal hero on one side protecting core values and established ways of life and his evil arch enemy embracing the role of the outcast, on the other, the ideal victim needs an ideal offender and vice versa. They would not exist otherwise. As the victim is pure, naive and completely innocent, the offender is completely immoral, an outsider, a person that is hardly a part of our society or -even worse- hardly a human being (Christie, 1986: 26): "The ideal offender is a distant being. The more foreign, the better. The less humane, also the better. Again a person, or rather a non-person, who creates anxiety" (Christie, 1986: 28-9).

Of course, this is hardly ever the case in real life. Offenders are not evil, but humans like all of us. Similarly, victims are often not that naive or innocent, but might have some responsibility, part of the blame or sometimes even consented to becoming victims, at least to an extent. As Christie (1986: 25) claims, the majority of offenders were either close or known to victims, whilst often a person assumes the identities of both the victim and the offender, but this automatically degrades him/her to "not ideal". In Christie's examples (mugged old lady and abused housewife) we see that the "ideal offender" could respectively be the young mugger and the abusive husband. However, these offenders might not necessarily be the pure evil perpetrators that society or media might think. They could have been victimised in the past, while there may exist a variety of socio-psychological push/pull factors (e.g. poverty, history of suffering, abuse, broken families, substance abuse) driving their behaviours.

Using this lens, Sharapov (2017), advocates that early-2010s official UK policies tended to idealise victims, presenting them as foreign and creating dichotomies within migrating

populations between deserving victims and non-deserving illegal migrants, whilst presenting traffickers as mostly foreign, organised criminals to support a tougher criminal justice stance on immigration with the pretence that we are punishing traffickers. Sharapov (2017) illustrates how this binary distinction between victims and traffickers justifies the “othering” process of both and the subsequent viewing of trafficking as a predominantly transnational crime, conducted by mostly foreign organised criminals (“the deviant Others”) against mostly foreign victims (“the victimised Other”) that can be subsequently solved with increased border patrols, regulations and transnational policing towards the desired goal of eliminating trafficking. Sharapov (2017) employs an intense critique of this policy-based goal to eliminate trafficking, which according to early-2010s UK policies examined, is a feasible goal, fully achievable by strengthening the UK borders.

Sharapov’s critique leads to the broader question: How can any legislation in any given society or time succeed in completely abolishing a phenomenon that has been taking place for centuries? The answer is that it almost certainly cannot and despite long-standing abolitionist movements, trafficking, slavery and generally exploitation are still present.

Durkheim strongly advocated in favour of the normality of crime as a broader societal phenomenon in his book *The Rules of Sociological Method*, published in 1895. There, the famous French sociologist stated that:

“Crime is not only observed in most societies of a particular species, but in all societies of all types. There is not one in which criminality does not exist, although it changes in form and the actions which are termed criminal are not everywhere the same...there is no phenomenon, which represents more incontrovertibly all the symptoms of normality, since it appears to be closely bound up with the conditions of all collective life...crime is normal because it is completely impossible for any society entirely free of it to exist” (Durkheim, 1982 [1895]: 98-99)

In other words, what is labelled as crime might change over time or vary from place to place. But still crime as a phenomenon, in general, has been going on forever and is answered in some form or another in all human societies. This led Durkheim (1982 [1895]: 85-107) classify crime among other “normal social facts” or alternatively “among the phenomena of normal sociology”, while he further added that “what is normal is simply that criminality exists” (Durkheim, 1982 [1895]: 98). For Durkheim (1960 [1893]), crime can sometimes be a sign of evolution, progress and social transformation: without any form of rule breaking, society would



stagnate and too much regulation would be, in Durkheim's terms, pathological. In this case, crime is caused by a discrepancy between social norms and individual morality, which leads certain individuals to oppose obsolete social rules. But crime for Durkheim can also be a factor contributing to social cohesion. When a crime is committed, citizens of that society unite against the crime and the offender, bringing upon him/her their "public temper", as Durkheim (1960 [1893]: 102) explains. This "public temper" is the wrath of society upon the criminal, who violated the societal solidarity. Therefore, in this case, crime serves as a social cohesion factor, meaning the societal glue bringing the rest of citizens together against this common threat, what Durkheim (2008 [1912]) calls "collective effervescence". In contrast, what constitutes pathology to Durkheim is not crime on its own, but an unusual growth in crime rates, "...what happens, for instance, when [crime] reaches an excessively high level. There is no doubt that this excessiveness is pathological in nature." (Durkheim, 1982 [1895]: 98).

Building on the above, normality for Durkheim, in the case of crime, is associated with existence. When Durkheim claims that crime is normal, he does not mean that we should go on to applaud and encourage it. He simply means that it is normal, because it has forever existed and no society has ever managed to eliminate it, irrespective of what acts fall under the term 'crime' in any given society. And not just that, but also crime for Durkheim can be useful in two ways: because it may either be a rebel act serving to morally advance a society that is based on obsolete rules and is in a transitional phase or because it may unite the people who share the social membership of a given society against a common threat, which is eventually repudiated, outcasted or to use a term influenced by Sharapov, it is *otherised*.

Now, in the course of history, trafficking and slavery, as noted in chapter 1, have existed for centuries, are closely connected to mankind and can be answered in most human societies and civilisations, considered not only legal, but also key features for many of them. Slavery and trafficking are now outlawed and criminalised in most parts of the world. Despite the existence of relevant legislation, policing efforts and cooperation, numerous incidents of slavery/trafficking practices are still taking place worldwide, as noted in chapter 1. Therefore, applying the above Durkheimian rationale to trafficking/slavery and exploitative practices in general, the existence of such phenomena, like the existence of every other crime, is not a pathology per se; but an unusual growth in the rates of trafficking, slavery or other forms of exploitation would be. This does not mean that trafficking, slavery or the exploitation of human beings and their treatment as commodities are behaviours that we should stoically accept or embrace and therefore not condemn. Pathology in this context is not a characterisation assigned to the exploitative

behaviour itself, but to the society in which this behaviour is answered. Therefore, phenomena of trafficking, slavery and/or exploitation should not be treated as something unexpected or extraordinary, meaning as something that has never happened before, constituting a sign of some exceptional pathology of a given society that should particularly alarm us and which we can subsequently eliminate. But an unusual growth in the rates in which these phenomena are answered at a given time and location may potentially indicate that that given society is indeed suffering from deeper systemic problems, including a financial or broader moral decline or is undergoing some sort of a transitional phase in its life cycle. These deeper systemic problems simply unfold and manifest themselves through the increase in the rates of exploitation, trafficking and slavery.

Combining Sharapov (2017) with the aforementioned Durkheimian observations, we conclude that the UK policies studied by Sharapov promote an unrealistic elimination of a social act that has long existed and which is only criminalised in the last few centuries and not by all countries, simply by proposing a more punitive immigration agenda. Sharapov (2017) interprets this as the UK's effort to connect trafficking with migration, overlooking domestic trafficking and thus justifying the imposition of tighter border controls using the goal of eliminating slavery as an excuse to apply more punitive anti-trafficking/anti-immigration measures. Arguably, this "othering" process of the innocent but usually foreign victim on one hand and, most importantly, the evil, foreign, organised trafficker, on the other, that Sharapov (2017) noticed, could serve to reaffirm the cohesion of the British society against the common trafficking threat coming from outside the UK borders. In a way, this emphasis on presenting human trafficking as a predominantly transnational matter, simultaneously downplaying its domestic side, could aim to regroup and strengthen the collective conscience of British citizens, in order to draw more support on their behalf for an even more punitive, blanket criminal justice approach to the issue of human trafficking and potentially immigration in general. Subsequently, this approach is bound to fail in considering the grey areas of trafficking as a phenomenon, whether that is the consent or prior knowledge levels of victims, the organisation levels of traffickers, the fluidity between victims-traffickers and so on.

It goes without saying that human trafficking and modern slavery are criminalised by most countries in the world today and that should be the case from a moral, humanitarian and liberal point of view. Therefore, imposing criminal sanctions to traffickers is a natural consequence of that, as trafficking, slavery or generally exploitation of human beings are behaviours that no one would endorse and that no one would say they should go unpunished. The key point is

Sharapov's (2017) observations on the UK's focus on transnational trafficking and overly punitive criminal justice approach to trafficking, which is accompanied by this binary distinction between evil traffickers and innocent/genuine victims, as well as by a neglect of the grey areas of trafficking, as pinpointed earlier on in this chapter, and of its domestic side. Sharapov's point can be combined with Pirjatanniemi's (2019) notion of "ideal" and therefore "deserving" victims in contrast to the "non-ideal" and automatically "undeserving" ones, who are subsequently demoted to illegal immigrants, treated as such and serving to justify a punitive anti-immigration state agenda, potentially fuelling the identification issues of first responders analysed in chapter 2.

*iii) The teachings of Immigration Criminology and how criminological trafficking theories fit in this current of thought*

The observations made by the aforementioned scholars on trafficking belong to the broader current of the contemporary criminology that studies immigration, or in other words, to the broader current of *immigration criminology*. This branch is mainly dominated by -broadly speaking- left and/or even Marxist perspectives and is very much focused on the receiving/destination countries and mainly those in the West. Reviewing this broader framework of thought would help identify the various theories and viewpoints, underline the key differences they have to one another, as well as the similarities they share and subsequently examine how the above trafficking-related criminological work fits in this broader current of criminological thought centring on immigration.

Wacquant (1999) had long ago used the term "hypercriminalisation" to denote the increasing involvement of modern criminal justice systems in managing immigration. His lens is more focused on Europe, where "foreigners and quasi-foreigners" living in the continent are 'the "blacks" of Europe"' (Wacquant, 1999: 216). Wacquant (1999: 219) draws a comparison between migrants and Christie's (1986) ideal offenders, calling migrants living in Europe the EU's "suitable enemy". His earlier work is more focused on second-generation immigrants to Europe (hence the term "quasi-foreigners of Europe"), who despite being European themselves, are often targeted more by authorities, eventually treated worse by the criminal justice system of their countries and subsequently imprisoned at higher rates (Wacquant, 1999). Later, Wacquant (2008: 45) identified a bifocal practice on the part of "fortress Europe" aiming at removing irregular immigrants by deportation and at marginalising those who could not be removed by a

practice he termed as “extirpation via expanded incarceration”. These actions combined lead, according to Wacquant (2008: 45), to the “ostracisation of unwanted ‘guest workers’ turned ‘immigrants’” in the EU, which now as a phenomenon allegedly exceeds in size the over-incarceration suffered by African Americans in the U.S. Wacquant (2008: 48) argued that this practice of mass expulsion serves to take revenge upon those who “disrupt the (supra)national symbolic order” of the EU and its Member-States, while it also further fuels negative feelings among the people of the EU against populations migrating to the Union. Above all, Wacquant (2008: 49) believes that this practice of extirpation and expulsion taking place in the EU denotes the underlying uneasiness on the part of many European countries to deal with the effects of their engagement in the “fate of the postcolonial societies of [their] former empires”.

The numbers of those migrating to Europe have inarguably and rapidly increased nowadays, with Bosworth (2017) noticing too an unprecedented current of migratory movements taking place globally over the last years, pointing out that the public opinion became more aware of this phenomenon around 2015, when the Syrian refugee crisis fully unfolded in the EU. Bosworth (2017) observed a hostile and exclusionary response from most EU countries, which responded to this refugee and migration crisis by closing borders, increasing national and transnational policing efforts, border patrols and the presence of immigration officers in prisons, thus extending the arm of immigration law and the criminal justice system to greater spaces. Bosworth (2019), outlining the key focus areas of the newly developed “border criminology”, additionally supported that the administrative measures taken to address these migrating currents in Europe -and which often revolve around practices of confinement and subsequently deportation- are very similar to criminal law punitive powers enforced against criminals. Kaufman and Weiss (2015) in their study of Anglo-American legal systems agreed with the above, stating that several -seemingly- civil sanctions, such as immigration detention or deportations, are, in fact, not simply civil regulations, but punitive, quasi-criminal law methods of incapacitation, retribution and ultimately punishment, usually accompanying a criminal law sentence, such as imprisonment. This practice, according to Kaufman and Weiss (2015), blurs the boundaries between civil and criminal, regulation and punishment, with these two responses often used together against imprisoned non-citizens.

This situation aligns with many scholars’ viewing of today’s developed world’s immigration law practices as extremely punitive, subsequently imposing strict criminal law penalties. Measures such as detention or deportation are becoming the norm in this anti-immigration environment (Bosworth, 2017). Stumpf (2006) focusing on American immigration laws, had long advocated

how these evolved from the initial stages of the U.S. as an independent country, when they were only excluding convicted felons from migrating to America to today's version, where they got harsher, fully criminalising migration in general. Stumpf (2006: 376) was also the first who used the term "Crimmigration Law" to summarise these practices, denoting this "intersection of criminal and immigration law" observed increasingly today. Kanstroom (2000) had talked before about how the deportation process and the general treatment of immigrants share the same characteristics with the criminal law methods of incapacitation, revenge and deterrence, further explaining that the treatment of immigrants consists of incapacitating them by restricting their movements, taking revenge upon them for migrating and deterring any new prospective migrants. Tyler (2010) claims that the justification for these punitive and restrictive measures is perpetuated based on the myth of a looming threat against the nation, the national identity and the community's wellbeing. Bosworth (2017) identifies a more punitive immigration policy line globally employed since 9/11, which served as the starting point for viewing immigration as a threat for homeland security.

Webber (2017: 8) described this progressive shift towards adopting a stricter immigration mentality as the "EU's obsession with controlling borders and stopping 'disorderly movements' and spontaneous migration of refugees and migrants to Europe from elsewhere", supporting that it started in 2002 with the adoption of the 'Facilitators Package', meaning the *Directive and Council Framework Decision regulating Member States' national penal laws against human smuggling*. Malloch (2016: 185) notices that most EU members continue to use the term "illegal immigrants" instead of "undocumented immigrants", subtly criminalising migrating populations, simultaneously giving alibi to a tougher law enforcement agenda. Van der Woude and Van der Leun (2017: 42) point out that border checks are taking place even within Schengen Area, thus directly violating the Schengen Agreement on abolishing internal borders and supporting free movement.

As regards Britain, since 2006 the Home Office has prioritised the deportation of foreign prisoners and those failing in asylum claims (Bosworth, 2011). The UK policies seem to "reflect a desire to protect and sustain a rigid asylum and immigration system", set within a framework of strict border control and increased security measures (Westwood, 2015: 86). The over-representation of foreign nationals in UK prisons led to the creation of "hubs and spokes", which effectively entailed the use of immigration officials in prisons created specifically for foreign prisoners, where administrative immigration-related measures, such as deportation could be more easily enforced (Turnbull and Hasselberg, 2017). The route followed in the UK for foreign

prisoners is often one leading from prison to detention and from detention over to immigration removal centres for expulsion (Turnbull and Hasselberg, 2017). As regards legislation, *Immigration Acts 2014* and *2016* contain more and easier-to-impose removal policies, making it harder for undocumented immigrants to use public services, bank services, rent accommodation, exercise housing and financial rights or find employment, whilst also showing increased hostility, imposing severe punishments on those employing illegal workers and on employees themselves (Lewis, Waite and Hodkinson, 2017: 192). This new immigration legislation has a negative effect on asylum seekers too, along with immigrants and minorities, a phenomenon which will possibly be exacerbated by Brexit and the potential restraints on European citizens' free movement rights. The target of these laws and policies is to "assuage perceived xenophobic anxieties of the electorate, which have only been buoyed by the Brexit vote", Lewis, Waite and Hodkinson (2017: 188) claim. Managing immigration has always been the main goal of all UK Immigration Acts, but now the goals are to actively control populations and assert authority, as Lewis, Waite and Hodkinson (2017: 189) note. The above are corroborated by Turnbull and Hasselberg (2017), who identified a categorisation between "deserving" and "undeserving" migrants, fostered by the above practices. Drawing on Sykes' (1958) five core pains of imprisonment and deprivation (loss of liberty, security, autonomy, goods and services and heterosexual/social relationships) and Goffman's (1961) observations on how prisons serve to strip individuals of their pre-imprisonment identity assigning to them the new inmate's label, Warr (2016) theorised on how the abovementioned practice of imprisonment combined with the civil sanctions imposed on foreign-nationals prisoners create a new Panopticon for these populations. This new disciplinary system manages and administers imprisoned foreigners, fostering a deprivation of certitude, legitimacy and hope for them (Warr, 2016).

De Giorgi (2010) employs a neo-Marxist approach to identify broader punitive anti-immigration policies in the West since the 1970s. Drawing parallels between the Foucauldian notion of public punishment practices, which became spectacles in 18<sup>th</sup> century Europe, to today's punitive practices against migrants also becoming spectacles for the masses, he advocates that capitalism uses punishment of migrants to make worker masses docile: states strengthen their borders and employ the same practices both in and out of them, dividing people into classes of deserving and non-deserving, whether that is migrants or domestic labourers (De Giorgi, 2010). In his words, this practice represents "the dawn of a power of control, which supervises whole populations whose collective status justifies their banishment" (De Giorgi, 2006: 85). Border

control is, thus, not restricted to borders, but is subsequently infused to society, meaning the interior of the destination state and constitutes the go-to option for asserting population control (De Giorgi 2006, 2009). This extreme punitiveness against migrants, De Giorgi (2010) adds, leads towards a more vulnerable and willing-to-serve workforce of deserving migrants that will be subsequently picked to be exploited by the neoliberal state.

Finally, we are now shifting towards zemiological viewpoints, which consider the term “crime” to be socially constructed, restrictive since it allegedly includes acts which might cause minimal social, personal or financial harms, simultaneously excluding those (e.g. pollution) which cause far more extended social harms, whilst criminology and any criminological discourse on crime further perpetuate the myth of the criminal act as a separate standalone social phenomenon, justifying an extension of the crime control culture (Hillyard and Tombs, 2017). Using the Greek word *ζημία*, which effectively means harm and directly transferring it to the English language as *zemia*, this group of scholars named their new current of thought as *zemiology* and utilised the term ‘social harm’ as an alternative concept to the socially/state-constructed concept of crime. Zemiology built on a long tradition of scholars, who tried to enrich or find alternatives to the notion of crime. Sellin’s (1938) efforts to broaden the term ‘crime’, in order to include all acts that deviate from “conduct norms”, which in turn differ from group to group and from society to society, was followed by Sutherland (1945), who also advocated in favour of widening the concept of crime to include all acts prohibited by all branches of law in general and not just criminal law. Schwendinger and Schwendinger’s (1970) focus on the harms arising from phenomena of racism, sexism and financial exploitation was followed by Michalowski’s (1985) “crimes of capital”, which was further evolved by Kramer, Michalowski and Kauzlarich (2002) in the concept of “state-corporate crime”. This term includes all actions by the state/government in cooperation with corporate institutions, which break the law or cause any sort of injuries to society (Kramer, Michalowski and Kauzlarich, 2002). Thus, zemiology offered its own notion of “social harm” to the arena of criminological thought to pinpoint behaviours that often fall out of the scope of criminology or criminal justice systems. As Hillyard and Tombs (2017: 289) state, the current of zemiology may include “harms experienced by individuals, households, family units, and indeed communities from whatever source, even encompassing mass harms”. These harms can therefore be physical (e.g. excess deaths of older people during winter), financial harms (e.g. poverty, unemployment), environmental and cultural harms or even occupational injuries.

Building on this broad notion of social harm and concentrating more on states and supranational organisations like the EU as perpetrator of harms, Soliman (2019) examined the inaccessibility of regular migration/asylum processes, the strengthening of EU borders and the subsequent neglect and non-rescue of sea crossers by the EU and its Member-States. Soliman (2019: 5) goes a step further than crimmigration theorists like Bosworth, Stumpf or Turnbull and Hasselberg, who supported that immigration law is now fused with criminal law methods of incapacitation of immigrants, without, though, equally adopting the safeguards of criminal law proceedings. To do that, Soliman (2019: 5) uses Velloso's (2013) critique against crimmigration theorists as biased by "criminocentric dogmatism", meaning "the tendency to view social phenomena within a crime framework, measuring different forms of social control against criminal law". According to Soliman (2019), crimmigration discourse views the management of immigration through a restrictive domestic criminal justice and not transnational lens, overemphasising "state's power and state sovereignty". In other words, crimmigration theorists, by underlining the expansion of the domestic criminal justice system beyond the state borders and its utilisation as a tool to regulate migration, pay too much attention on the nation-state, suggest that migration control is a criminal justice matter that simply lacks more accountability and thus neglect the "international and supranational dimensions" of migration control, such as those expressed by the EU. Soliman (2019) termed these phenomena of state-caused and EU-caused restrictiveness to immigration and asylum as a "state harm" resulting from broader EU-migration policies, despite recognising in her work that states are not obliged by international law to patrol or search-and-rescue in waters beyond the 24 nautical miles of territorial and contiguous zones. Therefore, even if a state has set an exclusive economic zone of 200 nautical miles, this relates exclusively to that state's rights to explore and use marine resources, not posing a subsequent obligation to the state to extend search-and-rescue patrol efforts there as well.

Following a detailed review of the various strands of the contemporary criminological and zemiological discourse on the issue of immigration, we can see that the aforementioned scholars and their respective theories and viewpoints bear distinctive differences to one another. However, I would argue that they also have some similarities, which merit further exploration in order to identify the common threads between the various perspectives that form the broader contemporary criminological discourse on immigration.

Evidently, Wacquant's (1999) earlier work, as seen above, centred more on how European states manage and treat immigrants (often second generation quasi-foreigners as Wacquant



called them), who are already within borders by the use of a criminal justice approach. This approach, allegedly, draws the criminal justice system's attention to them and ultimately ends up producing criminality instead of tackling it, through a constant process of over-targeting, labelling and self-fulfilling prophecy (Wacquant, 1999). This situates Wacquant somewhat closer to critical criminologists, labelling or moral panic theorists, who also addressed issues related to the operation of the criminal justice system within the borders of a given state.

For instance, Bonger (1969), heavily influenced by Marxism, inherently believed that capitalism fosters exploitation, inequalities and egoism in the pursuit of monetary gain. Bonger (1969) advocated in favour of the existence of a deep-rooted societal divide between the rich and the poor, with egoism being the driver behind crime for both categories. Instead of promoting more effective crime control, Bonger (1969: 9) viewed the criminal justice system as a mechanism of the rich to subordinate the poor by twisting the concepts of crime, order and law in order to punish acts which "injure the interests of the dominant class". On a similar note, Dahrendorf's (1959) reworking of orthodox Marxism produced a broader divide of societal members between those dominating and those dominated/subjected. Conflict between the two categories is unavoidable for Dahrendorf (1959), and criminal law along with the criminal justice system are both manufactured in such a way that they will inevitably benefit and promote the interests of the dominating classes. Turk (1969) took a similar conflict-centred theoretical approach to his viewing of society and crime. He distinguished between "authorities" and "subjects" and argued that criminalisation is the natural consequence of the conflict that arises between the two categories, serving as the tool to further subject the subjects (Turk, 1969). Turk (1969) was also heavily influenced by labelling theory, arguing that nobody and nothing is criminal, unless this label is attached to them by those who are powerful enough to do so. This shade of Turk's theory brings us to Becker's (1963) long-standing labelling process of the deviant other. As Becker (1963) argued, deviance is constructed and applied by others through rules, laws and punishment and often befalls upon those who come from lower socioeconomic strata. Deviance is not a quality of the person, but a characterisation that others bestow upon them to denounce them as outsiders and their act as criminal deviance (Becker, 1963). Becker followed Tannenbaum's (1938) notion of "tagging" and how criminals are not just attached a tag or a label temporarily, but are subsequently viewed, defined and segregated based on it on a more permanent basis. From labelling theory, we cross over to moral panics, caused by the very people that society deems and labels as deviant or dangerous for social order: a group or certain behaviour is labelled as deviant, causing societal concern and anxieties and is, as a

result, being met with hostility (Newburn, 2017: 90). This is what we call the “folk devil” or “scapegoat”, who is labelled as a societal threat and projected as such by the media; an increasingly worrying feeling about this deviant group/behaviour is fostered among public, to which the authorities and policy makers react in a unified way by making stricter changes to the legislation and their policing practices (Newburn, 2017: 90). This is what Lemert (1951) calls the “societal control culture”, meaning the intensifying efforts of control agents (police, courts, policy makers etc.), and the adoption of new legislation, stricter than the existing one (Cohen, 2002: 89, 91-92). The panic subsides after a while, only to give its place to a new one (Newburn, 2017: 90). Goode and Ben Yehuda (1994) give five characteristics of moral panics, namely concern, hostility, consensus regarding the way to react, disproportionality in the solutions applied and volatility (Goode and Ben Yehuda, 1994). Garland (2008: 11) adds two more characteristics on the concept of moral panics: “the moral dimension of the social reaction” and the belief that the deviant behaviour is symptomatic. He also notices that moral panics tend to flourish during transitional periods, in which the established social, political and moral order is questioned (Garland, 2008: 11). Hall et al. (1978: 306) agree, noticing four characteristics of the time during which the mugging moral panic was unfolding: political crisis, economic crisis, ideological struggle and race as an issue in British social and political life. Hall et al. (1978: 29) further argue that the criminal activity causing the panic is not new; what is new is the way the crime is restructured, relabelled and in a way “repackaged” and presented to society, based on a new ideology, which is now used to explain/describe the crime and to construct reality in such a way as to further increase panic among people. Police choose to focus on the criminal activities surrounding this moral panic, which naturally increases the incidents reported, thus creating a “deviancy amplification spiral” (Hall et al., 1978: 38). Finally, Martin (2015) adds that moral panics can be permanent. Using the example of fear of immigration in the Australian society and how this issue has been central during the last six Australian pre-election periods and debates of the time he is writing, Martin (2015) believes that the moral panic of the Australian public and elites on migration is permanent; it is just dormant and awakens on purpose by elites during specific crucial periods (e.g. elections).

Arguably, Wacquant’s ideas on the targeting and over-representation of immigrants and second-generation citizens in western destination states by the criminal justice system, leading to their subordination compared to the rest of the citizens of that state, fit well in the strands of these critical criminologists, who argue that crime control is a matter related to class divide and serves as a way to assert general control over groups of people coming from lower social

classes through the concept of criminalisation. Wacquant's (1999) ideas also share many common points of reference with the criminological theories of labelling and moral panics, since he too argued that immigrants and second-generation citizens are labelled as criminal risks by destination states with their criminality being the product of the criminal justice system's focus on them. The main difference lies in the fact that in Wacquant's case, we do not have a class divide, but a *citizenship divide*. This is between the well-established citizens/social members of the destination state, on one hand, and the foreigners/non-citizens or those who might have the citizenship status, but are not yet established citizens in the destination state's conscience, thus being stuck in a quasi-foreigner/quasi-citizen status, on the other hand. Wacquant uses this category to denote the second-generation immigrants. Using Martin's (2015) observations above, this Wacquantic divide might not be such a new phenomenon after all, but could potentially constitute a permanent feature of destination states' societies, which might become clearer in times of crisis, such as financial or refugee/immigration crises.

Wacquant's (2008) subsequent work addresses the problem of the criminalisation of immigration in a broader, bifocal lens, as seen above. Wacquant's (2008: 46) later observations centred on the interplay between stricter border regulations, more retention centres, more sanctions for those "foreigners without papers...held after arrest at border crossings" and more imprisonment combined with the civil sanction of "territorial banishment" for those immigrants already living in European countries, who are over-targeted, over-represented in European criminal justice systems and subsequently subjected to double penalties, meaning immigration and deportation, when judged by courts to pose a threat for public domestic order. This situates him close to crimmigration theorists/border criminologists, such as Bosworth. Crimmigration theorists extend their lens compared to Wacquant's (1999) earlier work and go on to study not just the treatment of migrant populations already located in western countries, but also border control practices of state forces, as well as the treatment of migrants who are just entering destination countries, as examined above. Thus, they approach Wacquant's (2008) later observations and tend to agree with them. Jonathan Simon (1998) was among the first to pinpoint this increasing focus of America in imprisoning refugees and immigrants. Simon (1998) provided a set of predictions concerning the changes brought to American imprisonment trends, caused by what he termed as a "crisis in governance", which in turn was created by globalisation. As Simon (1998: 603) further elaborated, "incarceration seems to be taking up the slack for governance left by the global redistribution of the manufacturing economy", which as a result causes "whole communities to be organised by crime, law enforcement and welfare".

Bosworth and Kaufman (2011) in their study on American imprisonment confirmed Simon's predictions, identifying that the phenomenon of "immigration imprisonment" is indeed taking place increasingly in the U.S., where the immigration policy adopted aims at deportation preceded by incarceration. This is a trend which, according to Bosworth and Kaufman (2011), has been taking place since the turn of the millennium in the U.S. and is mirrored in the European jurisdictions as well, in countries such as Greece, Italy, Germany, Austria, Spain, Netherlands, as well as England and Wales. As a result, this causes an "international boom in the imprisonment of foreigners" (Bosworth and Kaufman, 2011: 454), which eventually constitutes the central study point for border criminologists.

Therefore, the focus of these scholars is, as seen above, more on the extension of carceral spaces and the criminal justice arm to even greater lengths, either within or outside the destination state's borders (Bosworth, 2017; Aliverti, 2013; Weber, 2013), combined with a focus on the marrying of criminal and immigration law, as well as on the extension of immigration regulations to traditional carceral settings (e.g. prison) and vice versa (Kaufman, 2015; Kaufman and Weiss, 2015; Turnbull and Hassenberg, 2017). The above state practices, which eventually fuse immigration with criminalisation, according to these scholars, lead to a subordination of migrating populations and to the viewing of immigration and citizenship through a "prison policy and theory" lens (Bosworth and Kaufman, 2011: 454). Krasmann (2007) used the term "enemy penology" to denote the modern state practice of merging immigration with prison and promoting these two concepts in tandem. Therefore, border criminology, similarly to Wacquant, also borrows key elements from critical criminology, such as that of the divide between groups of people and that of the subordination of certain individuals. But border criminology, like Wacquant's subsequent work, adopts a more international/transnational point of view compared to critical criminology, one which takes borders, transnational policies, immigration and citizenship into consideration. Based on the above, I argue that the goal of this newly-developed border criminology and its crimmigration discourse is not so much to challenge, but to continue, enrich and expand the modes of analysis offered by critical criminological strands, which tended to focus more on the local when analysing crime and crime policies, by "shifting the frame of analysis to take account of the global in the local" (Bosworth, 2017: 386).

The same globalising process takes place through neo-Marxist scholars like De Giorgi (2010). His analysis, as noted above, centres more on the interplay and more specifically on the antithesis between the mobility of capital in a globalised capitalistic world and the restrictiveness

in the mobility of labour through punitive immigration regulations. Still, De Giorgi's (2010) conclusions revolve again around notions of subordination of the migrating populations, thus showcasing that his theory is practically another extension of Marxist-influenced critical criminology. Like crimmigration theorists, De Giorgi also adopts a critical criminological lens, which he extends beyond the borders of the nation-state. Instead of having the powerful imposing their authority on the subordinated lower socioeconomic classes, we have the destination state imposing its will to migrating populations through strict immigration regulations that lead to the "criminalisation and illegalisation" of immigrants, with some being denied entry and others being accepted, but still closely supervised and managed by the destination state's criminal justice system (De Giorgi, 2010: 160). De Giorgi's ideas match well with the viewpoints of border criminologists, as evidenced by Turnbull and Hassenberg's (2017) work examined above, which, in fact, borrowed De Giorgi's categorisation of immigrants as deserving-undeserving.

Shifting to zemiology, the common threads between zemiologists and all the above theorists are less visible but, arguably, still strong, when examined more closely. As Newburn (2017: 276) notes, the zemiological concept of "social harm" -and in our case "state harm"- does indeed question and challenge the notion of crime, with zemiology trying to distance itself from mainstream criminological modes of analysis. As we saw above, it does so by advocating how the concept of crime, which mainstream criminologists use, is a concept purposefully constructed to narrow down responsibilities concerning phenomena, such as pollution, poverty, refugee crises or workplace injuries, that are often left unpunished, despite them causing grave harms. In fact, Hillyard and Tombs (2017) went on to label criminology as a "distorting discipline", rendering it "incapable...of understanding and analysing a whole range of harmful events and activities" due to its restrictive framework of thought, caused by its close ties to criminal law. Therefore, instead of using the traditional term 'crime' combined with the theory of social construction and labelling, as critical criminologists so far did (Matthews, 2009), in order to lodge a critique against alleged state practices of purposefully criminalising certain undesirable behaviours (e.g. mugging according to Hall or young people's violence according to Cohen) of certain groups of people (e.g. British of Caribbean ethnicity according to Hall or Mods and Rockers according to Cohen), zemiology takes their theorising to the next level, by denouncing crime as a term altogether. As outlined above, zemiologists do not simply deem crime to be state-constructed, but also restrictive for criminologists themselves and for their respective interpretations. Similarly to horses' blinkers, the term 'crime' and the discipline of

criminal law are rendered, according to zemiologists, detrimental for criminologists, diminishing their ability to see further than the state allows them to see and to make broader interpretations about how certain behaviours are criminalised, while others are left unpunished despite causing far more serious consequences.

Naturally, criminologists came back with a vengeance and intensely critiqued the allegations lodged by their zemiology colleagues. Hughes (2007: 197) stated that “state and corporate crime as well as the ills brought by an unequal and divided world, are, indeed, key concerns of criminology” and are already studied in depth by mainstream criminology. And herein lies the truth about zemiology. The fact that zemiologists, the way they have utilised the concept of harm thus far, do not bring about a new, radical theoretical revolution against criminology, but for the most part offer a reworking and expansion of critical criminology. But let’s explain this further.

As Hughes admitted above, state actions and/or white-collar crime have always been under the scope of criminology. This view, which intended to show that zemiology does not reinvent the wheel in criminological thinking, indirectly reveals the close link that exists between zemiology, crimmigration and critical criminology, despite their significant differences. Instead of just accusing the destination state for its measures against migration, by using a neo-Marxist framework of thought to critique the classification of immigrants to deserving and undeserving and their subsequent subordination by the neoliberal state, or instead of invoking the increased mixing of immigration and criminal law into a new Frankenstein-like branch of law termed “Crimmigration Law”, in order to show how states betray the notion of humanitarianism, zemiologists are going a step further. They are trying to actually hold the state accountable for its actions and inactions. They do so by deconstructing the alleged state-made notion of crime, which the state has, according to zemiologists, long used to advance its interests with a new, zemiology-made, normative, quasi-criminal law concept, which is the “social harm” and -most importantly here- its sub-category, meaning the “state harm”. Using the concept of social harm, zemiologists can address domestic oversights by the state -and potentially privateers- that often go unpunished, while with the concept of state harm, the same can be done for any border/transnational oversights by destination states or supranational organisations, such as the EU.

Still, zemiologists emanate from the same starting point as many critical criminologists, which is the viewing of crime as a socially and most importantly state constructed concept. As seen

above, when examining the key proponents of critical and border criminology, most theorists argued in favour of the existence of a criminalisation process, meaning a process where crime is attached as an etiquette to certain acts and groups of people deemed undesirable by the state for some reason or another. Again, one might wish to call this criminalisation process using Becker's "labelling" term or Cohen and Hall's "moral panic". One's discourse might centre on the class subordination and division of societal members between rich and poor, dominating and dominated or authorities and subjects like Bonger, Dahrendorf or Turk. Maybe we could make use of the dipole "deserving-undeserving" immigrants like DeGiorgi or just apply the categorisation of "quasi-foreigners" like Wacquant. One might talk about an alleged extension of the criminal justice arm of the destination state to greater spaces, as Bosworth would argue. Nonetheless, the end result remains more or less the same. Namely, that crime is constructed by the state and subsequently used or even manipulated in such a way as to retain certain inequalities in the managing of people based on their social class or, as contemporary immigration criminology would argue, based on their citizenship status. This is the point that zemiology shares with critical and border criminology: the fact that all these currents of thought view crime as a constructed concept, weaponised in the hands of the destination state.

Where zemiologists deviate from the rest, is that they do not just restrict themselves to a fierce critique of state practices and of the state-constructed concept of crime, as most critical, (neo-) Marxist or crimmigration criminologists usually do. They move beyond the stage of identifying the constructed nature of crime and the stage of critiquing state practices to that of actually denouncing crime altogether and subsequently proposing a new viewing of social and state acts, expressed through the brother notions of "social harm" and "state harm" to hold the state accountable. In this endeavour, zemiologists need not critique criminologists as intensely as they might have done, as in fact their theoretical interpretations of social and state acts through the lens of harm instead of crime are -so far- mostly an extension of critical criminology and not a radical deconstruction and restructuring of it. As Newburn (2017: 276) well spotted, zemiology remains essentially an evolution of critical criminology, offering simply "an alternative focus for such scholarship" and not a radical challenge to it.

So what new does zemiology offer then? The answer is that zemiology, the way it has thus far utilised the concept of harm, essentially offers not another viewing of state practices, but an extension of critical criminological viewings, one that is bolder than the analysis of Wacquant, border criminologists or neo-Marxists. Beyond the zemiological interpretation of what the state *has been doing so far*, which, as we analysed above, shares many similarities with the various

respective criminological interpretations on the same matter, the nuance of zemiology is that it offers a new normative criminological response to state practices. In other words, zemiology offers a brand new vehicle to justify what the state *ought to do* from now on, following the deconstruction and denouncement of existing state practices. Looking at the field of state harm in particular, zemiologists reject taking an “apolitical approach” (Soliman, 2019: 14) and instead embrace activism (Canning, 2018). Copson (2016: 75) supported that critical criminologists, in the end, found themselves legitimising the very systems and structures they critiqued, by using the objects of their critique as the starting points of their analyses and thus founding their whole philosophy on the very things they were criticising before. Consequently, their talk of alternatives was bound to be restricted. Zemiologists, on the contrary, suggest not acting against state practices, but trans-acting or “transpraxis” (Soliman, 2019: 14), a concept defined by Arrigo and Bersot (2016: 561) as “permanent revolution”, where alternatives to state practices are examined outside and beyond the given state-made structures. In their effort, zemiologists take pride in that they are still following the “tradition of activist and revolutionary approaches first developed within critical and radical criminology” (Soliman, 2019: 14). In this sense, zemiology aims at achieving “broader positive politics of change” and suggesting more radical alternatives, not so much by denouncing critical criminological or crimmigration-related notions and especially that of social constructionism, but through further radicalising existing critical criminological thinking (Copson, 2016: 76, 78, 83). In other words, zemiology accepts the constructed notion of crime, the exploration of what acts are labelled as crimes and what people are labelled as deviant, pinpointed long ago by critical criminologists, but goes a bit further to question the very ontological reality of the concept of crime and examine whether that can be substituted with something different. Zemiology is challenging critical criminology, not by changing it completely, but by pushing it to start thinking a bit more *outside of the state-made box*. Thus, the critique of critical or border criminologists regarding the expansion of state power beyond its borders through the use of crimmigration measures, finds, in fact, a suitable helping hand through Soliman’s (2019) “state harm”. The concept of state harm, as developed thus far by Soliman (2019), essentially summarises, embodies and solidifies the theoretical critique posed by crimmigration theorists, constituting basically a normative applied extension of the theoretical border criminology and effectively providing a more tangible vehicle to actually hold the destination state accountable for its border practices.

Based on the above, we can conclude that the above currents of criminology, which dominate contemporary criminological thinking on immigration, despite bearing important differences to



one another regarding their focus points and theoretical interpretations, nonetheless share some common roots and assumptions about state practices. Irrespective of the several categorisations and labels that each sub-current attaches to itself in order to delineate its distinct theoretical turf and varying viewpoints, arguably all these currents end up sharing the same goal, which is to lodge a critique against the destination nation state. Yet this time, they are not using a class struggle located within the nation state's borders to achieve this, but a struggle located outside its borders based not only on class, but mainly around the ideas of citizenship, race, social membership and identity (Bosworth, 2017). Consequently, the above theories aim not so much to question, but to advance and globalise the established critical criminological thinking, fusing it with a broader, border-control related perspective when analysing crime policies. For the purposes of this thesis, we may group and analyse these theoretical strands together, as they essentially constitute a reformulation of critical criminology theories, broadened with a more global mindset rather than a purely local one. I will use the term *globalised critical criminology* to refer to them.

Now, the above observations on today's handling of immigration by Western developed states correlate to the observations made on human trafficking before, especially for the UK. In this broader restrictive climate, which the UK has embraced, as shown by its immigration policies and the decision for Brexit, it is also evident that the UK is focusing a lot on trafficking and slavery lately with the 2009 introduction of the NRM, the 2015 enactment of the anti-trafficking/slavery legislation, the subsequent increasing production of policy papers and finally the use of awareness raising campaigns. All these show that Britain is actively increasing its anti-trafficking efforts, concentrating more on this criminal activity. As the ATMG (2017) notes, the aforementioned desire by the UK to implement a stricter border control will only make people wishing to migrate to the UK to find employment more desperate to do so. This desire combined with the increasing difficulty in making this trip caused by the stricter immigration control, as well as the continuous financial deregulation, flexibility and erosion of Labour Law and basic workers' rights in the UK, may well make these people fall more easily prey in the hands of traffickers, the ATMG (2017) fears. As Jobe (2010) supported well before the implementation of the UK anti-trafficking legislation, Britain had always been focusing more on human trafficking as a criminal law matter/offence, concentrating on the prosecution of perpetrators and much less on trafficking as a human rights violation, which would lead policies to focus more on victims' treatment and protection.

Thus, De Giorgi's (2010), as well as Turnbull and Hassenberg's (2017) classification of migrants by the receiving state to deserving and non-deserving reminds us of Sharapov's (2017) dipole between blameless victims and evil perpetrators and Pirjatanniemi's (2019) broader notion of "ideal" and therefore "deserving" victims in contrast to "non-ideal" and automatically "undeserving" ones, who might still be genuine victims, but are subsequently viewed and treated as illegal immigrants.

Further, Bosworth's (2017) notion of how immigration/nationality controls are being diffused to all stages of criminal justice systems relates to Malloch's (2016) findings on how many genuine trafficking survivors are being viewed and wrongfully criminalised as illegal immigrants, with their immigration status prioritised over their victimhood. This involvement of victims in the criminal justice system or even worse, their misidentification as undocumented immigrants by authorities (Haynes, 2004: 229-230), only exacerbates the trauma human trafficking has left on them (Wasserman and Ellis, 2007: 2). This trauma, Lasocik (2010) explains, is what obliges destination countries to treat survivors not just as victims of an offence, but predominantly as victims of a gross human rights' violation. Still, many face a state of limbo, according to Malloch (2016), as they can be victimised and unwanted not only by the origin country, where they are often undesired, but also by the destination country, which frequently views them as illegal immigrants.

The word "limbo" brings us back to the asylum system and the refugee crisis described by Bosworth (2017) above, a phenomenon which, like trafficking, cuts through multiple sectors and areas of state policies. There we also have the criminal smugglers viewed through a criminal justice lens, the innocent smuglees/asylum-seekers, the rights/needs of the latter and the involvement of border forces and transnational policing, along with the state's criminal justice system. Rotter (2010), in her study on asylum seekers in the UK and more specifically Glasgow, used the word "limbo" to describe the delays faced by asylum seekers waiting for long periods of time for a decision on their status. Rotter (2010: 182-183) connected this limbo state to many asylum seekers' feelings of "powerlessness" and living or moving in an "uncharted territory", while waiting for their asylum applications' results. Evidently, the same delays and backlogs of undecided cases were found to negatively affect primarily non-UK/EU trafficking victims compared to UK/EU ones (see Tables 1 and 2).

Bringing this back to human trafficking, Holmes (2010b) mentions the term "quadruple victimisation", with survivors being victimised on four levels: 1) by traffickers, 2) by corrupted

officials cooperating with traffickers, 3) by media with their graphic and crude depictions and 4) by destination states, which are either corrupted themselves, violate international conventions on trafficking/slavery, have not trained their officials and raised awareness to help reveal more cases or subject victims to secondarily traumatising trials and criminal justice processes. Whether or not authorities of the destination country are corrupted, Jobe (2010) underlines the fear that victims often have towards them, largely cultivated by their experiences in origin countries or by traffickers, who use negative images of authorities to assert control on victims. Language barriers and the stigma often associated with trafficking victimisation further worsen the situation for victims and their willingness to trust and open up to authorities (Jobe, 2010).

Therefore, some first questions that arise are the following: Is that binary distinction and mode of creating opposite stereotypes of ideal victims and traffickers evident in current UK human trafficking policy discourse, as Sharapov (2017) advocated when studying early-2010s UK policies? Why does that happen? What are its consequences? What role does immigration play in anti-trafficking policies? To help answer these questions, I shall now shift the lens to the state-actor, examine how a state operates, what state policies aim to achieve and subsequently what implications the above observations have for the state.

### **3.4 Implications for the State: Duties and Obligations**

The aforementioned criminological theories on immigration, asylum and trafficking have identified an effort by states, predominantly Western destination ones, to intensify border controls, enforce stricter immigration agendas and regulate migratory movements coming in to the destination countries more closely. The policies on issues partly relating to migration, such as asylum or trafficking, appear to have been influenced by this punitive anti-immigration shift and asylum seekers or trafficking victims are seemingly being very closely scrutinised, as the delays and the discrepancy in positive decisions for international trafficking victims suggests. Trafficking survivors, Sharapov (2017) and Pirjatanniemi (2019) say, face a classification between ideal and therefore genuine ones and non-ideal, who are subsequently demoted to less genuine or even bare illegal immigrants meriting only crimmigration measures, such as detention and deportation. This classification falls into the general categorisation of immigrants

to deserving -and therefore useful for the destination state- and undeserving, who are subsequently criminalised (De Giorgi, 2010).

However, for any discussion on state policies to be complete and avoid one-sided conclusions, one has to examine the state side too and try to understand how state decisions or policies are being taken or adopted respectively by the state actor. As Matthews (2009) stated, the concept of State for most criminologists usually reflects their own political orientation and understanding of the concept of power. However, I propose that a more complete viewing of the concept of the nation state has to take two very basic notions influencing policymaking into consideration, namely the concepts of *International Relations Realism* and *conflict of rights*. The examination of the interplay of these two concepts with immigration is crucial for our discussion.

#### *i) The dynamics of exercising state power*

As established by International Relations, states act predominantly based on realism. Realism in International Relations tells us that politics primarily revolve around groups, while individuals need these groups along with the cohesion and solidarity they provide in order to survive; the most notable groups today are states; all sovereign states act based on egoism, seeking to maximise their rational and narrow self-interests and regulate issues with the aim of achieving the greatest benefit for them, amassing the largest amounts of power for their self-preservation; realism is sceptical towards moral/idealist objectives, abolishing any responsibility, as that might be enshrined in concepts such as the zemiological “state harm” seen above (Wohlforth, 2008).

However, realism is not the only ideological current driving states and state policies. *International Relations Liberalism* rejects this monolithic interpretation of the solitary state exercising power for its own self-interest, concentrating on other external or centrifugal power dynamics, meaning globalisation processes, including the existence of international or non-governmental organisations shaping the exercise of power, processes of international cooperation and trade, along with efforts to democratise more nations in order to increase the prospects of world peace (Moravcsik, 2008; Shiraev, 2014). The UN is a prime example of an international organisation where disputes are resolved through discussion, while diplomacy is also a solution envisaged by International Relations liberals. The practice of enforcing minimum legislation standards through international or European legislation and the process of *harmonisation* among Member-States, who then shape their national legislations accordingly

(Letschert and Rijken, 2013), are also examples of the effect of liberalism in international relations, showing how legislations and policies can be influenced by forces beyond the state. The OSCE and its design of the NRM, discussed in chapter 2, is a fitting example here. However, the degree of how far beyond these minimum standards a state will go and whether it will simply adhere to the minimums set by international/European legislation or go a step further upgrading the said legislative protection and to what extent, still lies within the power of the realist state.

Turning to idealism/moralism in International Relations, Galston (2010: 387-388) elaborates on the key distinction between political moralism and political realism. The former gives priority to the moral over the political, implying that political choices and the exercise of power are guided by morality, while realism, as seen above, gives “more autonomy” to political choices and how they are guided by purely political concepts, such as power in contrast to morality. Galston (2010) draws on the debate between John Rawls and Bernard Williams, with Rawls prioritising justice as the ultimate principle and Williams prioritising order. As Bull (2000: 58) explains, idealists guided by Enlightenment ideals believe strongly in global progress and after the experience of WWI focused on ways to grow an “international mind” towards peace, away from self-centred state interests. “Not remarkable for their intellectual depth or powers of explanation, only for their intense commitment to a particular vision of what should happen”, this current of thought eventually restricted itself mostly on hopes rather than feasible suggestions and practical teachings (Bull, 2000: 59). Yet, their emphasis on democratisation of nations and international cooperation subsequently contributed to the creation of the aforementioned, more moderate current of International Relations liberalism.

The above show the several ideologies and factors that exist on a state and international level shaping state power. It became evident that beyond the concepts of harmonisation and adherence to EU/international minimum standards, policy choices and power decisions still lie to a great extent on the realist state and its efforts to maximise its self-interest. Still, Rawls argued that even on a domestic level under modern pluralism, not all citizens of a state will agree on how to achieve eudaimonia (Galston, 2010). Elkin (2006) agrees saying the following:

“the ‘circumstances of politics’ may be defined as a...state of affairs in which there is a large aggregation of people who (1) have conflicting purposes that engender more or less serious conflict; (2) are given to attempts to use political power to further their own purposes and those of people with who they identify; (3) are inclined to use political

power to subordinate others; and (4) are sometimes given to words and actions that suggest that they value limiting the use of political power by law and harnessing it to public purposes.” (Elkin, 2006: 254-255)

These views on how ideological conflicts unfold over the exercise of power bring to mind the theory of *culture wars*. Hunter (1991) defines *culture wars* or *culture conflict* as:

“...political and social hostility rooted in different systems of moral understanding. The end to which these hostilities tend is the domination of one cultural and moral ethos over all others...the principles and ideals that mark these competing systems of moral understanding are by no means trifling, but always have a character of ultimacy to them. They are not merely attitudes that can change on a whim, but basic commitments and beliefs that provide a source of identity, purpose and togetherness for the people who live by them. It is for precisely this reason that political action rooted in these principles and ideals tends to be so passionate.” (Hunter, 1991: 42)

Culture wars theory helped reformulate the classic criminological theory of *moral panics*. As Garland (2008: 16-17) elaborates, due to the plurality of the voices and opinions heard and the diversity in mass media, we, nowadays, tend not to experience moral panics as often as we did in the past (even though there are still incidents of moral panics today as Garland stresses out), but instead witness episodes of “American-style culture wars”, where social groups are fighting each other over an issue, trying to assert their authority and point of view (Garland, 2008: 16-7). Culture wars occur in issues polarising elites and masses between the two extremes of Conservatives/Orthodox and Progressivists. They are issues on which everybody can have an opinion and even draw arguments based on their personal experiences, depending on whether one has an “impulse toward orthodoxy” or an “impulse toward progressive” (Hunter, 1991: 43). Hunter (1991: 35-41) gives examples of culture conflicts, including the traditional fight between Catholics and Protestants in the U.S., guns or abortion.

Thus, what Rawls or Elkin described above are not simply cultural conflicts between Left and Right, but between political realists and idealists/liberals. These terms cut through both the Left and the Right, since we can have both left and right realists, as well as left idealists (e.g. Marxist utopianism) and right idealists (e.g. Old Hegelians and their conservative idealism centred on religion and culture). In this cultural conflict, realists, as Galston (2010: 391-392) explains, do not base their decisions on the legal, the moral or the economical, as that would be too narrow-

minded. “Saintly individuals”, meaning idealists, can be based on the belief that *fiat justitia, pereat mundus*<sup>4</sup>, but the way forward for realists is to operate based on Cicero’s *salus populi suprema lex esto*<sup>5</sup>, which steers decision-making towards the ultimate goal of maximising the state’s and society’s benefit, as two different but inter-related entities (Galston, 2010: 392). Galston (2010: 392-393), discussing Williams, brings the example of international humanitarian protection or aid, which is usually not driven by the same moral principles that would -for instance- motivate an individual rescuer to save a drowning man, but by principles of power and asserting control to the under-operation territory after the crisis there has ended. As Galston (2010: 395) adds “principles cannot serve as standards for political life unless their implementation is feasible in the world as we know it” and that quote can be used as the foundation of our critique on Immigration Criminology. Morgenthau (1966: 25) said that “international politics, like all politics, is a struggle for power”, while Keohane (1986: 181) noted that power is central to both Realists and Marxists. But where these two differ is how they understand the ultimate goal of power. Marxists believe that power is ultimately benefiting the capital over labour, the few over the many, but Realists support that power ultimately serves the general good through the concept of “good governance” (de Graaf and van der Wal, 2010: 624), meaning the good of the many over the good of the few or in other words *eudaimonia*, the Aristotelian end goal of all political systems. After all, as de Graaf and van der Wal (2010: 626) note “being good and doing well are not the same things”.

Still, realism, in its extreme form, may read a bit too cynical, although effective and largely useful. Therefore, the limitations of realism are evident. Carens (1996) elaborates how realism can -in its extreme form- slide into injustice (although as Galston [2010] would argue, sometimes you need non-democratic measures to establish a democracy) and how idealists/moralists often promote non-applicable ideas for our non-ideal world. Hoffman (1981) explains:

“One of the key necessities in this field is to avoid too big a gap between what is and what ought to be. In any system of law, or in any system of morals, there is always a gap between the is and the ought, between the empirical pattern and the norm. The gap is necessary and inevitable. If there were no gap, people would not feel any sense of obligation, or any remorse when they violate a norm. But when the gap becomes too

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<sup>4</sup> Let justice be done, though the world perish

<sup>5</sup> The health (welfare, good, salvation, felicity) of the people should be the supreme law

big, the system of law or the system of morals is really doomed - to have no impact whatsoever or to be destroyed" (Hoffman, 1981: 28)

With his framework of "realistic morality", Carens (1996) tried to combine the contrasting notions of realism and moralism/idealism to overcome the inherent limitations both these currents have, particularly when dealing with immigration. As Carens (1996: 161) explains, we should aim "to avoid overload" and therefore "not to place greater moral demands" on actors (people or states) "in any given context than their degree of emotional identification with others in that context will enable them to fulfil". A realistic viewing of immigration ethics would instruct a state to choose practical policy options and disregard those that "have no chance of adoption" (Carens, 1996: 159). As Carens (1996: 159, 161) adds, open borders is an unrealistic option that no state would consider; what they would consider instead, would be more feasible options and modifications to their immigration policies by relaxing or restricting border regulations, admission criteria, asylum policies and so on. After all, the way to convince someone, in this case the Realist State, to enforce a change is to show them how they would also benefit from that shift.

## *ii) The complexities of policymaking on immigration*

We begin to see how complex the forces behind policymaking and particularly immigration policymaking are. Deepening the discussion, Parvin (2009) identified a consensus in Western politics throughout the 1990s, supported by liberal and libertarian political currents, around the concepts of equality, individual freedom, justice and the need for social and political institutions to respect these values and allow people, irrespective of origin, culture or ethnicity, to freely live their lives and make choices without the state intervening to this. This consensus provided the background for the rise of -what we may call- the *multiculturalism paradigm* in the West. Multiculturalism is defined as "the recognition of group difference within the public sphere of laws, democratic discourses and the terms of a shared citizenship and national identity" (Modood, 2007: 2). Hansen (2002) disagrees, stating that Europe, particularly North Europe, has always been sceptical towards immigration, while he views European multiculturalism as the inescapable consequence of European colonialism. Still, Parvin (2009) argues that political liberalism or libertarianism in the 1990s was more focused on freeing people from the state grip rather than on how culturally cohesive this new vision of community should be, leading to a consensus among politicians, practitioners and think tanks, who now favoured a new approach to social life based on cultural diversity and respect of minorities' rights (Modood, 2007). Hatton



(2005) agrees, illustrating that 1990s UK policies were more permissive, leading to a rise in inwards immigration. Givens and Luedtke's (2005) research on UK, Germany and France between 1990-2002 also showed that labour immigration was generally viewed in a more liberal and less restrictive way, while the ideological stance of political parties influenced mostly the means of integration of migrants, but not the means of immigration control, which remained the same.

Givens and Luedtke (2005) argue that this liberal consensus was halted by the rise of the radical Right. Yet, this politically liberal interpretation of multiculturalism had been equally critiqued by both conservative and left thinkers around the world before that. Conservative writers like Sandel (1996), who expressed his concerns over the loss of traditional republican values in America, the breakage of the community's moral social bond and cohesion following the aforementioned liberal consensus on multiculturalism and the no-value neutralism he observed in the 1990s U.S.; Glazer (1997), who appeared more understanding towards cultural plurality, but still viewed multiculturalism as a concept that should focus not so much on the variations and differences between the cultures of a given society (in this case the American), but as a concept that should strive for respect of these diverse cultures, primarily aiming though at their inclusion under the national umbrella of universally accepted communitarian values; Etzioni (2004), who also worried about a breaking of the community bond, proposing that multiculturalism's diversity should be embedded within the community's robust civic fabric, always serving this community's values and goals; or Scruton (2019) who stated that the truth in multiculturalism lies in how the West, following Enlightenment, achieved to free social membership from the notions of religion, race, creed, ethnicity or kinship and transform it into a concept that asks for one thing only, namely respect to civic culture, social contract and the ideals of classical liberalism. Still, Scruton (2019) pointed out the dangers of an unchecked multiculturalism that erodes rather than respects the concept of the pre-existing national identity. Similarly, left thinkers like Fraser (1997), who viewed liberal multiculturalism as a force that might superficially recognise and respect the cultural diversity observed in the modern West, but in a rigid way, not allowing these cultural identities to further evolve into something different than the shape and formation they have in the liberal state's conscience. Fraser (1997) was concerned about liberal redistribution policies aiming to alleviate certain inequalities, as they seemed to not tackle the deep-rooted causes of why people of certain cultures were in this less favourable position, whilst they further fostered stigmatisation and labelling of the very people they were supposed to aid. The same fears were expressed by Levy (2000), who problematised

over the impossibility of this cosmopolitan citizenship, worrying about the smothering of distinct ethnic identities under this notion of -what I call- *universalised nationalism*.

Parvin (2009: 353) further identified a shift that occurred as mass migration and globalisation began to distort concepts such as national identity, social cohesion or “public culture”. Concerns of the public and the policy makers over the long-term effects of multiculturalism shifted the focus towards re-building the “civic bonds than unite people rather than those private attachments and memberships that appear to separate them” (Parvin, 2009: 354). This was more observed in the UK under New Labour and its Third Way compromise between neoliberalism and social liberal democracy (Giddens, 1998). As Parvin summarises, New Labour’s initially divisive policies on the issue soon gave way to a policy line championing a multiculturalism paradigm that would not give minority groups the ability to self-govern, but would be firmly embedded in the concept of Britishness, under the umbrella of the British national identity and culture. Thus, the New Labour abandoned the Tories’ ‘Fortress Britain’ migration mentality, still imposing a system “dominated by business interests and overblown claims for administrative efficiency” (Flynn, 2005: 465). As the then PM Tony Blair said, Britain “will neither be Fortress Britain, nor will be an open house”. Therefore, despite promises to the contrary before rising to power, the New Labour administration with a series of White Papers (e.g. “Fairer, Firmer, Faster”, “Working in the UK”) and laws (e.g. *Asylum and Immigration Act 1999*, *Crime and Security Act 2001*, *Nationality, Immigration and Asylum Act 2002*), along with the “Highly Skilled Migrants Programme” showed that they would regulate immigration based on a business/free market-led mentality (Flynn, 2005) dividing immigrants to “good” or “wanted” and to “bad or “unwanted” (Mulvey, 2011: 1478). Simultaneously, Britain did not sign the Schengen Agreement and applied strict rules for asylum seekers with the ‘Lisbon Initiative’, which tried to spur further changes to the asylum system in Europe, arguing that due to the vast increase of asylum seekers in Britain and elsewhere in the world, the Geneva Convention was too wide, “no longer working as its framers intended” as Jack Straw, the then Home Secretary had stated and consequently in need of change (Mulvey, 2011: 1479-1480). Straw had even claimed that whether an asylum claim is genuine or not should not form the only basis on which it will be judged and a limit to even genuine asylum seekers should be imposed, blaming the obsolete Geneva Convention system for the governmental policies’ failure (Mulvey, 2011: 1479-1480).

These shifts were also observed strongly in the EU. Phillips (2007: 21) observed that this “flirtation with multiculturalism [in Europe]...seems to have given way to a more strident

insistence on national belonging and identity”. McKay and Wright (2008) identified a correlation between freeing the movement of Europeans and restricting the admission of non-Europeans in the EU. Ambrosini and Boccagni (2015: 35-36) also observe a “growing disaffection with multiculturalism” in European political discourse, which eventually drove the EU’s decision to consolidate its borders and strengthen the European values and national identities composing the Union.

This shift in policies did not take place in a vacuum, but seems to be expressing -to an extent- long-standing public perceptions and opinions on migration. Simon and Sikich (2007) examined how public opinions evolved in seven countries between 1995 and 2003, among which the UK, Germany and France, concluding that public opinion had steadily expressed serious concerns over immigration, its ties to crime and its ramifications on employment prospects. This aligns to Blinder and Allen’s (2016) study, which showed that immigration ranks among the top-5 most important political issues in the UK’s public conscience, with about 75% of the respondents favouring restrictions on immigration. On the questions of whether migration was good or bad for the UK economy and whether it enriched or diluted the UK cultural identity, responses were polarised.

Yet things are not that straightforward. Public perceptions alone do not shape national and transnational politics, while the public itself is not unaffected by other forces. Eberl et al. (2018) identified an underrepresentation of migrant groups in European media. When migrants are presented in European media discourse, Eberl et al. (2018: 217) noted the existence of common representations/stereotypes with immigrants “often framed as either economic, cultural, or criminal threats and thus covered in a highly unfavourable way”. These representations vary according to the type of migrant (regular or irregular) and the cultural proximity of the migrant’s origin country to the media’s country (Eberl et al., 2017). This shows the media’s role in shaping public opinions on immigration, and how media can also contribute to public discourse with their stereotypes.

Arregui and Creighton (2018) further question the claim that public views on migration drive EU immigration policymaking, supporting that there are other factors influencing policymakers, including the ideology of European political parties, unemployment rate or percentage of immigrants on domestic Member-State level. Furthermore, Haverland, de Ruiter and Van de Walle (2018) show how there had never been a special Eurobarometer on migration, refugees or integration when writing their article, implying that the EU had not been actively seeking

European citizens' views on migration. Despite that, the Autumn 2019 Standard Eurobarometer published afterwards, showed that immigration and climate change were the top-2 concerns of Europeans (European Commission, 2019), while Burgoon and Rooduijn's study (2020: 21-22) illustrated that the more hostile the public is towards immigration, the less likely they will support welfare redistribution policies and parties promoting them due to economic-based concerns that "migrant outsiders will unfairly benefit". The undisputed rise of populist right-wing parties over the last few decades (Muis and Immerzeel, 2017) and the choice of Brexit, seen by Hobolt (2016) as a response to British voters' concerns over economy, migration and erosion of cultural identity, cannot be ignored. All the above show how the public, the media, the political parties and policymakers in Europe are intertwined and entangled in a *systemic stir*, an *interactional relationship* influencing one another, collectively shaping Member-State/domestic and EU policies on immigration.

Therefore, I conclude that this "growing disaffection with multiculturalism" in European politics (Ambrosini and Boccagni, 2015: 35-36), the rise of the radical Right and the increasingly restrictive European and Member-State immigration policies pinpointed by contemporary immigration criminology, suggest that Parvin's (2009) 1990s' liberal-based consensus on migration has been replaced by an *immigration control-led consensus hardwired* to the European and national Member-State agenda. This consensus is based on the realisation that immigration law needs to incorporate robust control mechanisms for the protection of the receiving state and society, along with the need to respect migrants' rights and establish naturalisation processes. Thus, any study on immigration and related issues such as asylum or trafficking cannot ignore the state's viewpoint, which will be further examined now using the legal concept of conflict of rights.

### *iii) Conflict of rights and immigration*

What is the rationale behind how borders, immigration and crime are regulated in the modern world under the destination state's perspective, which moves more towards a realist's perspective and an immigration control-led consensus?

The answer is the conflicting duties a state has to balance when exercising power. Using Nozick's (1974) framework of thought, as Waldron (1989: 503-504) explains, rights can be seen as "side constraints", possessing not only a positive character (the power to do something), but

also a negative character, restraining other agents by requiring them to abstain from certain actions and behaviours that might put a barrier in exercising them. So, rights of others place a duty on us. Taking the classic tripartite distinction of rights, we have civil, political and social rights. The former two not only convey power to the person to do something, but also restrain other members of society or the state itself, who now have the duty to not raise any obstacles against the exercise of this right. Social rights (e.g. right to work, health) are positive and negative, meaning that a person with the right to work has the power to do so and cannot be restrained by others. But they also require a certain participation from the state, placing an extra duty on the state to build the framework in which they can be exercised (e.g. build hospitals or enforce economic policies to help increase the jobs available in the market).

Naturally, rights sometimes conflict with each other. Waldron (1989) argues that it is not rights that conflict, but the duties that correlate with these liberties, with Kamm (2001: 240) summarising that “the liberty and the duty that each has are in conflict”. As Waldron (1989: 507) explains, the problem from these conflicts arises not because each duty on its own is impossible to be fulfilled, but because the combination of all duties together makes them impossible to be satisfied. Scruton (2017) builds on that emphasising how the practice of restraining rights is not restraining freedom, but is actually the necessary prerequisite to achieve true freedom. It is order that brings freedom and not vice versa (Scruton, 2017). “Freedom is a human good, certainly, but only when limited in ways that prevent its abuse” (Scruton, 2017: 49).

Using this lens on immigration, a person has the right to migrate, but the destination country also possesses the so-called *police power*, a term found primarily in the American legal context, deriving from Hobbes’ Leviathan and defined in Encyclopaedia Britannica as the right of the state to “the promotion and maintenance of the health, safety, morals, and general welfare of the public”. This principle is based on the Aristotelian viewing of the city structure, according to which the general good of the city or community comes before the good of the family or the individual:

“Further, the state is by nature clearly prior to the family and to the individual, since the whole is of necessity prior to the part; for example, if the whole body be destroyed, there will be no foot or hand, except in an equivocal sense, as we might speak of a stone hand; for when destroyed the hand will be no better than that.” (*Aristotle, Politics*)

This notion is also expressed by Cicero’s principle *salus populi suprema lex esto*, guided by a strongly utilitarianist perspective. Jeremy Bentham (in Burns and Hart, 1977: 393) had said that

"it is the greatest happiness of the greatest number of people that is the measure of right and wrong". Some would think that utilitarianism, focused on maximising the general happiness of a given society's people, would try to avoid conflicts. On the contrary, Waldron (1989: 507) states that utilitarianism does not avoid conflicts to maximise happiness, but instead uses this ultimate end goal of general happiness as the "master rule designed precisely to resolve" these naturally arising conflicts. A utilitarian will make "hard choices" and "trade-offs" on a realistic basis with the sole goal of benefiting and maximising the happiness and greater good of the society and the state (Waldron, 1989: 508-509). After all, this is how democracies work, respecting the views of minorities, but ultimately basing themselves on the rule of majority, which in turn imposes its views on how to achieve eudaimonia. The opposite would be found not in democracies, but rather in tyrannies or dictatorships, where the rule of minority would impose its will on the majority, meaning the tyrannically ruled people. And this is what Hunter (1991) shows in his culture wars theory: that in democracies either one of the two competing sides will try to win majority, assume power and impose their way of thinking towards achieving the end goal of the maximum general benefit.

Turning again to migration and trafficking, Miller (2014: 364) distinguishes between "basic" and "bare freedoms", with the freedom to migrate belonging in the second category, therefore meriting less protection. As he adds "it would be good from my point of view if I were free to purchase an Aston Martin tomorrow, but that is not going to count as a morally significant freedom" (Miller, 2014: 364). What Miller means, is that a migrant has the right to migrate to another country, but that is not a basic freedom deserving legal protection. Does this right to migrate create a duty on the receiving state to accept that person? The answer is no and it derives from the lack of *social membership* of the migrating person. The person is not a citizen of the destination country and just his/her wish or right to migrate, does not create a *limitless obligation* to the destination country to accept them, at least without any regulations or controls. After all, as Scruton (2019: 22) stated "human societies are by their nature exclusive, establishing privileges and benefits that are offered only to the insider". Of course a state can balance its needs in terms of labour, as the New Labour did in the UK, and accept a certain number of immigrants based on free market needs. But it cannot be forced to accept unconditionally. Even if someone were to support that the state still has a duty to accept and refrain from putting boundaries to migration, that would directly contravene the state's duty to positively act in order to provide welfare to its citizens for reasons attributed to scarcity of resources.

Therefore, the sovereign state makes decisions and designs its migration policies, bearing in mind its duties towards its citizens. This is what the New Labour did, prioritising their duties towards the economy and regulating migration with an economy lens. That lens could change; it could be a lens where the state would promote its duties towards retaining an efficient health system and health policy, a lens based on homeland security or cultural identity. All these concepts correspond to citizens' rights, which in turn place a duty on the government and depending on that government's goals, priorities, promises to voters and ideological predispositions, these concepts can be used to counterbalance the bare right to migrate. Of course the principle of *proportionality*, meaning adopting actions limited to what is necessary to achieve one's objectives, must always be kept. Based on this, a sovereign state possesses the absolute right deriving from sovereignty to regulate migration, promoting reasons pertaining to homeland security, public health or even protection of cultural identity, unless this "freedom [to migrate] has the kind of weight or significance" that would make it a basic freedom, or in other words, a fundamental right (Miller, 2014: 364).

What does Miller mean here when he talks about the right to migrate being upgraded from a "bare" freedom to a "basic" one? The answer is the case of a migrant being in danger (e.g. a boat in danger found at sea by local authorities, a plane with a severe malfunction flying over a foreign country) a refugee fleeing war, persecution or torture, seeking asylum in a safe country or potentially the case of a trafficking victim, who has pending support needs deriving from a prolonged traumatic experience. Categories of people who migrated and found themselves in danger or migrated in relation to exploitation or severe human rights abuses, either travelling to the destination country to escape a threatening situation at home or migrating as part of the abusive experience itself. These groups of people enjoy increased protection based on international and domestic legislation and a state is obliged to process their applications exactly because of their status, which automatically transforms their right to migrate from "bare" to "basic". These are the reasons why these categories enjoy increased levels of protection and support. Refugees and trafficking victims, according to the *Geneva Convention* and the *Palermo Protocol*, merit increased protection as victims of severe human rights abuses and/or exploitation. States are bound by these international legal instruments and consequently the rights of migrants who are seeking asylum or have been victimised by traffickers create binding duties to the destination state. *Pacta sunt servanda*<sup>6</sup>.

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<sup>6</sup> Agreements must be kept

But asylum seekers' rights and the corresponding duties they create are not limitless either. The international community discourages practices like *asylum shopping*, when asylum seekers either apply for asylum in more than one state or apply in a particular state after transiting other safe states, with the EU's *Dublin Regulation* being a good example of this. The recent case of Greece, which, following the sudden and abrupt change caused by Turkey's decision to violate the EU-Turkey Statement of 18/03/2016, open its borders and let huge currents of refugees and migrants cross the borders to Greece, decided to close its borders and temporarily suspend the receipt of any new asylum applications, is illuminating. Is that legal considering that Greece has signed the *Geneva Convention*?

The answer is yes. We said before that *pacta sunt servanda*, but this legal obligation stands as long as things are thus standing and unless there is a sudden, unexpected and abrupt change of circumstances, that justifies an equally dramatic change of policy. For every promise that must be kept, there is the doctrine of *clausula rebus sic stantibus*. A promise must be kept only as long as things stand the way they stood when that promise was made. One could contradict the above by invoking two key characteristics of human rights: their *universal* and *indivisible* character. The term *universal* means that everyone, without exceptions, possesses this right and the power coming with it, placing a corresponding duty to the other party to refrain from putting obstacles to the exercise of this right or (regarding social welfare rights) to even positively contribute to assisting its exercise. However, this does not mean that this right will create an absolute and limitless obligation/duty that does not conflict with the rest of the duties that the other party has. The term *indivisible* means that human rights are all equal and cannot be placed in a hierarchical order. But none of these two characteristics denote that human rights are *limitless*. Freedom of speech is a basic human right, a key democratic liberty. It is universal and states should build a framework in which it can be exercised by everyone, whilst it is also a liberty equal to other human rights and a *sine qua non* of a healthy, democratic life. But what if someone uses his/her freedom of speech to insult, tell lies, propagate fake news, express racial or sexist slurs or hate speech? Will this person's freedom of speech be protected? The answer is of course not. That person's freedom of speech would be rightly limited, exactly because he/she misused it, thus causing a conflict with the basic rights of other people, such as the right to dignity. This denotes that human rights are *universal* and *indivisible*, but not *limitless*. All rights are subject to conflicts and therefore limitations. This aligns to Scruton's (2017) observations about how restricting rights and liberties is in fact securing true freedom.



Nonetheless, under not extreme and non-conflicting circumstances, asylum seekers can place a duty to the state to examine their application and if they are found to be genuine refugees, the state has a series of obligations to them:

“A refugee has the right to safe asylum....Refugees should receive at least the same rights and basic help as any other foreigner who is a legal resident, including freedom of thought, of movement, and freedom from torture and degrading treatment. Economic and social rights are equally applicable. Refugees should have access to medical care, schooling and the right to work.” (UNCHR, 2002)

Now what about trafficking victims? They too enjoy increased protection according to international and domestic legislation as survivors of exploitation and often of human rights abuses. They have the right to be examined by an NRM, access support, accommodation, counselling, legal aid, vocational training and financial assistance after a positive RGD. However, as the OSCE (2004: 80-83) says, permanent residency will realistically be granted only in limited cases, with repatriation being the most common way forward. Reasons behind this limitation include the destination country's interests and corresponding duties towards its citizens, as explained above, along with the fact that refugees, by definition, are fleeing persecution and are in need of protection, whilst trafficking victims may not be fleeing the same dangers in their origin country, and therefore it may be safe for them to return home.

#### *iv) Critique of the Globalised Critical Criminology – Justification and Aims of research*

Connecting the above discussion to the theoretical teachings of immigration and trafficking-related Criminology, we can lodge a constructive critique based on our understanding of political realism and idealism/moralism. The problem with the aforementioned theoretical strands in criminology is that they all recognise reality, in the form of accurately reading the immigration practices of states as progressively more punitive, separating between deserving and non-deserving immigrants (De Giorgi, 2010; Turnbull and Hassenberg, 2017) or properly identifying a state's international law obligations (Soliman, 2019), but nonetheless choose to ignore the complex driving factors and justifications behind this reality, oversimplifying -at times- their discussions. These theories tend to be heavily moralising, often possessing the tendency to pass strong moral judgments and question the humanitarian character of certain state policies

on immigration, while at the same time suggesting or implying solutions, which transcend to the realm of political idealism, or even utopianism and subsequently to that of non-applicability.

Jock Young and the left realists in criminology had already launched a critique of the critical criminology of their time as out of touch with reality, steeped by left idealism (Young and Matthews, 1992). Left realists, especially during the 1970s and 1980s, departed from the positions of the then dominant forms of critical criminology, which tended to attribute the problem of crime purely to class structures, thus overemphasising the “class-bound nature of crime” (Downes and Rock, 2003: 285). As Young (1975) noted, this monolithic focus on moral panics and class categorisation as the sole drivers behind criminality and the only lenses through which to view the problem of crime, was idealistic and heavily neglecting of the realities of street crime, which revolve beyond class structures and more around personal suffering, problems and disasters. Critical criminology was labelled as utopian by left realists, failing to suggest more practical changes in crime policy, simultaneously romanticising the deviant as a rebel with a cause and promoting the imposition of limits to the state’s criminal justice system at all costs, seeing it as an “uncritical good” (Newburn, 2017: 283). According to Young (1975), this left the way open for conservatives to own the problem of crime by promoting their law-and-order campaign, which tended to be extreme at times, but still struck a better tone with people’s experienced realities of crime compared to the teachings of left idealists. This was corroborated by Young’s (1997: 482) observations on how the betterment of financial and structural conditions in society, evidenced by the advancements achieved in public educational standards, employment and welfare, did not lead to a reduction, but to a rise in criminality. This helped prove that class and social structures are one, but not the sole driver behind crime. Simultaneously, Young (1992, 1997) took aim at these branches of criminological theorising, which render offenders to be totally rational beings, coolly weighing the risks and benefits of their intended crime and acting accordingly (e.g. situational prevention and rational choice theories) for ignoring the structural causes of crime, thus overplaying the personal ones (e.g. free choice of the criminal) and for downgrading the goal of rehabilitation in punishment.

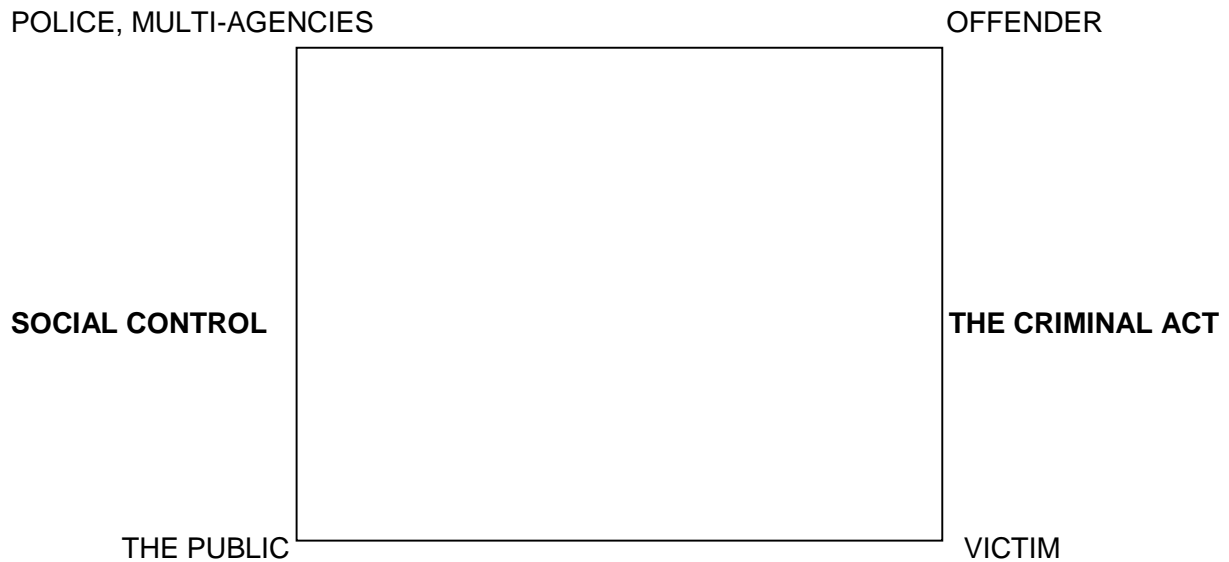
Following his critique, Young (1986: 21) suggested moving away from both the aforementioned “tendencies to romanticise or to pathologise” crime, as well as from the tendencies to “analyse [it] solely from the point of view of the administration of crime or the criminal actor, to underestimate crime or to exaggerate it”. Instead, more focus was needed on realism, meaning on the need to adopt a realistic and grounded approach to law and order, along with the need to place more emphasis on what can be practically done about crime and crime control (Young,

1986). As Lea and Young (1984) noted, crime should be still viewed in connection to relative deprivation, thus remaining a phenomenon that -to a large extent- affects working classes and -more widely speaking- vulnerable populations. However, more emphasis was needed on the fact that usually working-class crime and offenders still negatively affected working classes themselves, thus producing predominantly working-class victims. This emphasis on victims of working-class crime and how they tend to come from the same background as offenders, helped move the criminological focus away from the tendency to view offenders as the victims of an unjust society, like critical criminologists suggested, and place it closer to the lived experiences of victimised people living in deprived communities (Young, 1986), with the goal to hold offenders accountable and protect victims (Lea and Young, 1984).

Summarising the notion of left realism in criminology, Young stated that:

“Realism starts from problems as people experience them. It takes seriously the complaints of women with regards to the dangers of being in public places at night, it takes note of the fears of the elderly with regard to burglary, it acknowledges the widespread occurrence of domestic violence and racist attacks. It does not ignore the fears of the vulnerable nor recontextualise them out of existence by putting them into a perspective which abounds with abstractions such as the ‘average citizen’ bereft of class or gender. It is only too aware of the systematic concealment and ignorance of crimes against the least powerful” (Young, 1986: 24).

To achieve these, left realism prioritised the need to conduct more empirical research on the problem of crime and its impact, centring more on the causes of crime and the relationship between offenders, victims and forms of social control, with the goal to develop realistic policies aiming to address victimisation and to foster a more accountable and democratically operating police (Lea and Young, 1984; Tierney, 1996). Thus, the two main contributions of left realism in criminology were firstly the grounding of criminology from this idealistic viewing of criminality and romanticising of the subordinated criminal that critical criminologists had steadily promoted before, down to the realities and lived experiences of crime as this unfolds around us, and secondly the emergence of victimisation surveys. The key elements of the problem of crime, as identified by Young (1988, 1992), were: the victim, the offender, the formal system of social control (e.g. police), as well as the informal one (e.g. public). These are illustrated in Young’s (1992) famous “square of crime”:



**Figure 7: “The square of crime”**

**Source: Young (1992)**

The above is a critique that can be also reworked, extended and constructively lodged against the globalised critical criminology, as identified above. These various criminological theories on immigration, as seen above, and despite their distinct differences to one another, find common references to critical criminological ideas, essentially fusing them with a more globalised mindset. For the last 20 years or so, they have been steadily dominating the field of Criminology, feeding the criminological discourse on immigration. Yet, quite similarly to the critical criminology of Jock Young’s era, which Young went on to label as left idealistic, the contemporary criminological theories on immigration also tend to slide into idealism and utopianism, thus neglecting large parts of the very realities they study. This time, the term *reality* denotes the following elements: the way in which all states (origin, destination and transit) manage affairs and operate as independent actors, as well as the lived realities and concerns of migrating populations, but also those of the destination/transit state’s citizens, political parties and media, as analysed above.

More specifically, border criminology has managed to lodge a critique against the destination state, expressing viable concerns on what the future holds for issues, such as social justice, immigration and societal inclusion in western world societies (Bosworth, 2017: 386). But, I would argue that it has done so based on notions of a free-for-all, intangible and abstract

humanitarianism, which tends to focus mostly on the study of destination-state immigration practices and usually through the viewpoint of migrating populations, as they experience irregular immigration, asylum seeking or human trafficking with all the concerns, deprivation and uncertainty that these phenomena may entail for them. Yet, this way, border criminology has not managed to take into consideration the realities of immigration as a phenomenon that concerns the migrating populations, the origin, transit and destination states, as well as their society and citizens in an equal amount.

This one-sided examination of immigration only from the side of those migrating is also taking place by neo-Marxist theories or zemiologists, albeit from slightly different angles compared to crimmigration theorists. For neo-Marxists like DeGiorgi, their lens revolves around a critique of labour exploitation as a phenomenon that takes place mainly by the capitalistic destination state, which is effectively subjecting and subordinating migrating populations, in order to accept and subsequently exploit only those immigrants who are useful to it, thus abusing the global phenomenon of labour mobility. Regarding the concepts of social and state harm, both have the ability to provide very interesting grounds and new, unique opportunities to study crime and other societal phenomena in a much broader and more holistic way, freed by the allegedly restrictive, legalistic and arguably state-constructed lens provided by the concept of crime. Yet, looking at how the concept of social harm has been utilised so far, particularly in the study of immigration where it is answered as 'state harm', I would argue that, for zemiologists the question lies not so much in truly broadening our lens to include more lived experiences and sides of this issue, but in substituting crime with this new constructed ontology of harm, simply to hold destination states accountable, as seen above. Therefore, the zemiological agenda, as it has been unfolded so far, aims neither at shedding brighter light on the contemporary politics of immigration and punishment, nor at expanding our understanding of the lived realities that all parties are experiencing, with the aim to potentially suggest practical, feasible and well balanced improvements. The goal of zemiologists is to break away from one "regime of truth" (Copson, 2016: 90), with which zemiologists feel growingly disassociated, and substitute it with a brand new, zemiology-made regime of truth. This new regime of zemiological truth -to an extent- moves away from the, allegedly, distorted and restricted criminological view, only to make a full circle and return to the criminological motherland, focusing again on the destination state and its alleged state-harm-ful conducts, in a very similar fashion to crimmigration and neo-Marxist criminologists. The above take place despite the fact that harm, as a broader concept compared to crime, could be utilised to study not just the harmful effects of destination states' anti-

immigration policies on migrating populations, but also the harms caused upon migrants by their own origin countries or the harms of immigration on transit/destination states, their societies, their economies and their citizens.

All the above illustrate the weaknesses and shortcomings of the *heavily moralising immigration criminology*. Using Carens' (1996) framework, I argue that the above theoretical observations on trafficking and migration, despite their unquestionable academic contribution, often emanate from a desire to achieve an idealistic end goal of adopting open policies for trafficking victims, asylum seekers or generally immigrants in destination states, thus failing to be practical and ultimately appealing to the state, not recognising states' need to balance conflicting needs. The lens of the aforementioned writers, although academically stimulating and important for the production of academic knowledge, is often one-sided, bases its critique on ideological prejudice, views things from an idealistic and heavily moralistic perspective and ultimately produces knowledge that is academically helpful, but fails to be applicable.

The branch of criminology dedicated to the study of human trafficking often falls in the same one-dimensional moralistic analytical frameworks, which create certain theoretical gaps that need to be addressed. When studying issues, such as the images of victims and traffickers promoted through states' policy discourse, the wrongful criminalisation of victims or the support framework shortcomings, the root cause for all these problems, according to these theorists, is usually the broader restrictive immigration climate of the neoliberal western states (Malloch, 2016; Sharapov, 2017; Pirjatanniemi, 2019). This is a very useful theoretical framework, albeit one-sided, as it tends to oversimplify and disregard the complex dynamics and factors influencing the formation of state policies, as well as the way in which complex phenomena like immigration, asylum or trafficking unfold. Factors and sides of the problem that could be taken into consideration include: state realism and the pursuit of maximising state power, the effect of international legislation/harmonisation, the role of international or supranational entities like the UN or the EU, origin states and their role in these global phenomena, public perceptions/concerns, media, political ideologies, the concept of social membership, the state's conflicting duties that need to be simultaneously fulfilled and so on.

Summarising my critique, the contemporary mainstream criminology on immigration, by promoting intangible ideals and goals, tends to neglect reality on two fronts: realities shaped from top to bottom, meaning those shaped by how origin, destination and transit states exercise power as independent actors, which then, in turn, impacts all the way down to society and

people's lives, as well as realities shaped on lower levels, namely on a more grassroots level (public concerns) and a more middle institutional level, meaning those shaped by democratic institutions such as media or political parties' ideologies, which also go on to influence state policymaking and the exercise of state power. After all, as Parvin (2017: 700) emphasised, we end up facing an "enduring tension between the requirements of justice and the requirements of democracy", a situation where an idealistically intangible concept of social justice clashes with the reality shaped by states exercising power as independent actors, as well as by voters' decisions, public perceptions and tangible concerns about security, cultural identity or civic bond.

To achieve a more complete understanding of the trafficking phenomenon, we need to start by focusing equally on the destination state and understand its viewpoint when regulating these phenomena. There is a need to examine trafficking/slavery beginning from a much more balanced starting point, with respect to all angles of the problem, namely the micro-level (victim and perpetrator, victims' rights and needs), as well as the macro/state-level. From that point, we may then further extend our lens and study the origin state too and its role in how global phenomena, like immigration, asylum or trafficking, unfold.

The UK serves as a perfect example of a destination state where we can start studying the above, due to its increased focus on trafficking during the last decade, coupled with its growing restrictiveness on immigration and the intense critique its NRM is receiving. The UK's long tradition of abolitionism provides yet another reason for studying Britain's anti-trafficking approach. Despite the similarities between the terms *human trafficking* and *modern slavery*, there exist notable differences, analysed in chapter 2. However, as Broad and Turnbull (2019) observed, UK policies under May as Home Secretary and Prime Minister started viewing human trafficking much more through the modern slavery lens, often replacing the former term with the latter and structuring the trafficking issue "as a general problem of slavery" forming a "new abolitionist discourse" (O'Connell Davidson, 2015). This justifies the need to examine the UK goals regarding trafficking too.

Therefore, focusing on the UK context, we can ask the general question: How is human trafficking regulated in the UK? This can be divided into three sub-questions, which need to be examined in order to compose an answer to our broader question:

- How are victims and traffickers viewed in the UK's official discourse and how are both dealt with? What is the approach that the UK follows as regards human trafficking?

- How does the UK deal with the immigration side of human trafficking? How does it view the relationship between immigration and trafficking?
- How are the rights and needs of victims dealt with in the UK?

These sub-questions are based on the *tripartite nature* of human trafficking and answering how the UK deals with each, using the more balanced framework of thought and analysis described in this chapter, will give us an answer on how the UK regulates trafficking in general. Still, these three questions are not independent of one another, but interrelated, moving from higher-level policy issues down to more specific details and accounts of victims' experiences. So, to explore the third sub-question, how victims' rights/needs are dealt with in Britain, we need to examine the NRM, review how the process works, bearing in mind the various allegations expressed against it. Examining the NRM, its benefits and shortcomings to potential victims simultaneously requires shedding light on the relationship between trafficking and immigration and how that affects referred individuals. Correspondingly, this exploration of the Mechanism is crucial and also serves to reflect the policy choices and strategies followed regarding the regulation of trafficking. Thus, even before understanding how the NRM works, we first need to understand how both victims and traffickers are viewed in UK official policy discourse produced by Westminster and the devolved governments. Looking at the images of victims and traffickers in official discourse and the UK goals on trafficking, will further throw light on some of the choices taken in Britain around trafficking, which in turn serve as *foundations* for the NRM. Therefore, one has to examine the key UK anti-trafficking policies, providing the backbone of the NRM, in order to understand the representations of victims and traffickers promoted there, the policy choices adopted, the governmental goals regarding trafficking and subsequently the operation of the NRM itself.

And are the UK policy choices and the way of dealing with trafficking the same across Britain, or not? Differences among the UK's jurisdictions on the use of the NRM are noticeable just by reviewing the existing policies across Britain, while there is increased speculation on the issue of further devolution of human trafficking with the creation of a separate 'Scottish NRM', which will be allegedly friendlier towards victims. In fact, the Scottish Government has been very active in producing policy papers, having chosen a separate road regarding victims' protection, doubling up the recovery and reflection period to 90 days. These developments call for further research and deeper understanding of the fundamental drivers behind them on a UK level and also with respect to the nations of Britain.



### 3.5 Summary

This chapter presented the literature on human trafficking, a complex socio-criminal phenomenon with a tripartite nature, containing a victims' rights/needs aspect, a traffickers' aspect, whilst also tied to broader issues including prostitution, labour regulations and immigration. I examined the spectrum of grey areas regarding trafficking experiences, the victim and perpetrator, the common misconceptions around the main trafficking actors and the role of media and the criminal justice system in them. I highlighted that human trafficking is a crime where many grey areas exist, where victims can have prior knowledge or even full (but still not free) consent, perpetrators can be organised or opportunistic, while fluidity between victims and traffickers exists too. All these corroborate Malloch's (2016) view that the classic criminal law dipoles of guilty/innocent, victim/perpetrator and deserving/undeserving victims tend to be obsolete and in need of reconsideration, since trafficking presents a great deal of fluidity, uncertainty, relativity and mobility regarding identities and experiences.

Consequently, a state regulating trafficking should enforce policies that holistically address all three aspects. With my analysis, I paid respect to the academically stimulating observations of the contemporary criminological thinking on immigration. Yet, by identifying the complexities behind policymaking, the conflicting needs a state has to satisfy and the heavily moralising character of this criminological current, I illustrated the need to follow a better-rounded and more balanced way when analysing questions centred around trafficking, asylum and immigration.

Considering the UK's focus on human trafficking over the last decade, its increasingly restrictive immigration policy, long-standing tradition on abolitionism and the heavy critique the UK NRM is receiving, Britain becomes a perfect example of a country that needs to be more closely studied as to how it regulates trafficking. This can be done by examining how the NRM process operates, how victims are dealt with, the interplay between immigration and trafficking, the UK goals regarding trafficking and the main representations of victims and traffickers. This way, we may be in a safer position to identify what problems the NRM has and to what these issues may be attributed.

## Chapter 4

### Methodology

#### 4.1 Introduction

As illustrated in chapter 3, the goal is to examine how human trafficking is regulated in the UK by exploring the representations of victims and traffickers promoted in official policy discourse, the official goals regarding trafficking, as well as by looking closely at how the NRM operates and the main allegations against it. I aim to reflect on the NRM process and policy choices with respect to the state side as well, considering the complexities of policymaking and the conflicting needs/duties a state has to fulfil.

Therefore, I decided to conduct a bifocal analysis: a document-based and interview-based study. The analysis of policy documents, for which I use the term *critical document analysis*, was informed by the principles of critical discourse analysis and examined key UK policy documents forming the backbone of the NRM in paper. This method was combined with qualitative interviews with key stakeholders in the NRM process, meaning professionals/practitioners and victims, to assess how the NRM operates in practice. Here, I elaborate more on these methods, explaining why I chose each one based on my research questions and how I conducted the data collection and analysis. I shall also refer to ethics, sampling and generally the whole process in which I undertook this research.

#### 4.2 General Strategies of Qualitative Data Analysis

Firstly, I shall discuss my general approach and overarching methodological strategy. To begin, there are two general strategies of data analysis: *analytic induction* and *grounded theory* (Bryman, 2012). Analytic induction denotes the approach where the researcher first forms his/her research questions/hypotheses (usually after reviewing the relevant literature) and then collects data and consequently answers his/her research questions, confirming or disproving

his/her hypotheses (Bryman, 2012: 566-567). Grounded theory remains a more elusive and controversial approach (Charmaz, 2000) with many disagreeing on what it actually entails. Generally speaking, grounded theory starts with a rougher, more abstract research question, which is refined through data collection, producing more specialised questions, which then create the need for further sampling and data collection to answer them (Bryman, 2012: 571-572).

The goal of this thesis is by no means to get into a debate between the two approaches or a discussion on grounded theory. The above description covers the need to provide a context in which I can give the steps followed for my research. My approach contained elements of both strategies. Therefore, after consulting the available literature on trafficking/slavery and the UK approach to trafficking, I formed research questions surrounding the operation of the NRM, which informed the methods I chose, the interview questions I wanted to ask my participants and the themes I was looking for in policies. This is closer to analytic induction theory. Still, when embarking on fieldwork, not only my initial research questions started being answered, but also new ones emerged. A good example is the digitalisation of the NRM form, a key 2017 reform. As identified in my first few interviews, there were some issues with the digital NRM and questions concerning its use and readiness to be employed in practice. This made me ask more questions on the matter to my subsequent participants. Thus, I discovered important findings, such as that a worker of a support-providing Scottish NGO revealed that their organisation did not have much participation in the pilot process and had not yet received log-in details, despite that the digital NRM was ready to be applied in practice. Also, I found that both another Scottish NGO and Police Scotland had sent their newest, most inexperienced team members to the digital NRM pilot. This finding may be coincidental, but for that to be concluded, more research has to be done, as to why this tactic was chosen by both organisations. Does that show that both Scottish agencies have reduced faith or even prejudice against the NRM, despite the reforms? Or did they simply want someone less experienced to bring a fresher mindset to this?

Closing this part, I want to emphasise that the exploration of hypotheses/questions knows no boundaries. A question or hypothesis is never formed in a vacuum, but instead is, more or less, informed by literature reviews, pre-existing notions or even ideologies and stereotypes. Simultaneously, a research project is never rigid and there are no fixed stages in it. A question can be formed at the very onset before fieldwork, in the middle of it or at the end, grounded in the data retrieved. This flexibility is illustrated by Katz (1982), who emphasised that even when using analytic induction, one is still allowed to reformulate their initial hypotheses/questions

according to the data retrieved during the initial fieldwork stages. As Bryman (2012: 567) says, this practice should not be regarded as a “soft option” or a breaking of rules. This open and flexible strategy is exactly what I employed here. Now, the discussion will turn to my specific methods, meaning the critical document analysis and the qualitative interviews and how I used each to answer my research questions.

### 4.3 Document Analysis

#### *i) Justification for using this method*

Before examining the NRM and the allegations against it and to answer the broader question of how the UK regulates trafficking, it is firstly important to explore the NRM's background and the basic principles on which it was built. To successfully assess a system, we must first understand its logic, rationale and history behind it. The NRM, as every other system, was not built in a vacuum, but is the product of ideas or even ideologies, mixed with the aims of its creators. A way to achieve an in-depth understanding and assessment of such a process is to study the key official policy documents, which helped build, organise and run this system, serving as the *foundations* on which it stands.

As Knoepfel et al. (2011: 22) say “all policies aim to resolve a public problem that is identified as such on the governmental agenda. Thus, they represent the response of the political-administrative system to a social reality that is deemed politically unacceptable”. Policies are action-orienting, expressing the ruling government's ideology, its stance towards an issue that to them constitutes a problem and its intentions regarding how to deal with it. This discussion brings forward the theoretical concept of *governmentality* developed by Michel Foucault during the last years of his life, predominantly in his lectures at the *Collège de France*. As Garland (1997: 174) explains, governmentality focuses on “practices of government” and more specifically upon “the government of others and the government of one's self”. To put it in Foucault's (2008: 2) words, governmentality studies the “reasoned way of governing best, and at the same time, [the] reflection on the best possible way of governing”. Foucault (1982: 789-790) says that the art of governing is not necessarily restrained to purely state issues, but

relates to how all people and their actions are governed, whether that may be schools, families, sick and hospitalised people or children. It is -generally speaking- “the problematic of government” (Foucault, 1991: 87). Therefore, “to govern, in this sense, is to structure the possible field of action of others” (Foucault, 1982: 790). Foucault provides another key explanation to his notion of government saying that:

“...with government it is a question not of imposing law on men, but of disposing things: that is to say, of employing tactics rather than laws, and even of using laws themselves as tactics – to arrange things in such a way that, through a certain number of means, such and such ends may be achieved” (Foucault, 1991: 95).

Despite the fragmentary character of Foucault’s analysis due to the fact that he mainly developed governmentality in the later years of his life in the form of lectures, his concept is not contradicting, but retains a solid meaning. Governmentality has to do with the art of governing others and their actions in total. According to Garland (1997: 174), governmentality provides a great theoretical background for criminologists who want to study “how crime is problematised and controlled” by the ruling state.

Bringing the discussion back to policy analysis, Dunn (2016: 2) explains that this method’s goal is to conduct a “multidisciplinary inquiry aiming at the creation, critical assessment and communication of policy-relevant information”, with Tonkiss (2004: 376) emphasising that the researcher must “make clear the rationale for [his/her] selection and how it might provide insights into a topic”. In my case, these documents are the main UK policies/strategies, reviews and guidances issued between 2015 (implementation of the current anti-slavery/trafficking UK legislation) to August 2019 (end of my fieldwork year and mark of the NRM’s 10-year operation). I analysed 18 documents in total:

- Westminster (Home Office)
  - Modern Slavery Strategy (Home Office, 2014b)
  - Transparency in Supply Chains Etc. – A Practical Guide (Home Office, 2015)
  - Victims of modern slavery – Frontline Staff guidance ver 3.0 (Home Office, 2016a)
  - 2017 UK Annual Report on Modern Slavery (Home Office, 2017b)

- A typology of modern slavery offences in the UK (Home Office, 2017c)
  - 2018 UK Annual Report on Modern Slavery (Home Office, 2018a)
  - Discretionary Leave Considerations for Victims of Modern Slavery ver 2.0 (Home Office, 2018b)
  - Victims of Modern Slavery - Competent Authority Guidance ver 6.0 (chosen as the last CA guidance before the SCA's establishment) (Home Office, 2019b)
  - Victims of Modern Slavery - Competent Authority Guidance ver 7.0 (Home Office, 2019c)
- Scotland (Scottish Government)
    - Trafficking and Exploitation Strategy – Consultation – Case Studies (Scottish Government, 2016b)
    - Trafficking and Exploitation Strategy (Scottish Government, 2017b)
    - First Annual Progress Report 2018 (Scottish Government, 2018b)
    - Slavery and Human Trafficking Guidance for Businesses in Scotland (Scottish Government, 2018c)
    - Second Annual Progress Report 2019 (Scottish Government, 2019b)
- Northern Ireland (Department of Justice – DoJ)
    - Human Trafficking and Modern Slavery Strategy 2015/2016 (DoJ, 2015b)
    - Human Trafficking and Modern Slavery Strategy 2016/2017 (DoJ, 2016b)
    - Modern Slavery Strategy 2019/2020 (DoJ, 2019b)

I also included the *Interim Review of the NRM for Victims of Human Trafficking* (Home Office, 2014a), despite being issued in 2014, because it summarises the main critique against the NRM, causing the machinations for the 2017 reforms.

My method for analysing these documents is, as I name it, *critical document analysis*, informed by critical discourse analysis, but without the intention to reach the depth and granular level of detail the latter does. What follows is a review of discourse analysis and how my method fits in this context, adopting some of its elements, but at the same time distancing itself from it.

## *ii) Discourse Analysis*

Discourse analysis is “the close study of language in use”, according to Taylor (2001: 5). It “emphasises the way versions of the world, of society, events and inner psychological worlds are produced in discourse” (Potter, 1997: 188). Therefore, a text is not just language in the pure linguistic meaning of it, but also creates a version of the social world (Bryman, 2012: 528). Language, according to Potter (1996: 97-8) is not just a mirror, passively reflecting the outside world and reality, but more like a “construction yard”, meaning that language is constructed, but also constructs realities. In other words, a description is always constructed to reflect reality, but it can also construct a new reality of its own instead of just passively reflecting the external real world (Potter, 1996: 98). Consequently, the key for discourse analysis is to examine the nature and functions of discourse itself, rather than assess whether a certain description accurately reflects reality or whether it is used to construct a distorted, one-sided or false reality by comparing the said description to reality. After all Potter (1996: 99) wonders: what is the measure of comparison, the objective reality or a construct of reality as well? As Bryman (2012: 529) explains, discourse analysis is “anti-realist” and “constructionist”, meaning that discourse analysts usually adopt a social constructionist approach, rejecting the existence of an objective external real world and concentrating on which version of the world is chosen to be promoted each time by discourse.

The goals of discourse analysis are to find out what a certain discourse is trying to achieve, how the discourse is created to achieve this and what means are put forward to do so (Bryman, 2012: 529). “People use their language to do things: to order and request, persuade and accuse”, Potter and Wetherell (1987: 32) say. Language is not just a passive means used to portray something, but an active organism operating towards specific aims/goals (Bryman, 2012: 530). Even if the text’s language does not mention something directly, this can be elicited by the whole context, while even if many accounts agree with each other, this does not mean that they accurately portray reality (Potter and Wetherell, 1987: 33-34). So, discourse analysis is about interpreting the language, trying to understand why something is presented the way it is. It is also about what function and purpose language serves for the text’s author. Considering the audience to which this discourse is intended is important too (Gilbert and Mulkay, 1984). Another aspect to consider is what Kristeva (1986) calls “intertextuality”: the relationship and connection between texts. This is a concept developed by Bakhtin (1986), according to which some texts are connected to one another, either having an open conversation replying to each other or one text making reference to other text(s) or picking up an argument from where

another discourse left it (Fairclough 2001: 233, 1992). Other points of interest for discourse analysis are the document's general structure (Fairclough, 2001); its vagueness and how much detail it ends up giving, since many documents choose to provide little detail so that they do not leave room for questions; how discourses present counter arguments to illustrate their unreliability; active voicing, the technique where a view is attributed to many people in order to increase its popularity and therefore gravity and objectivity; extreme case formulations; how statistics can be interpreted differently or how a problem is being downplayed (Potter, 1996: 117, 162-163, 188-191).

### *iii) Critical discourse analysis*

As Weedon (1987: 108) says, discourse analysis studies the “ways of constituting knowledge, together with the social practices, forms of subjectivity and power relations which inhere in such knowledges and relations between them”. This reference to power relations and the concept of power in discourse brings us to *critical discourse analysis*, a subcategory of discourse analysis. As Bryman (2012: 536) explains, critical discourse analysis “emphasises the role of language as a power resource that is related to ideology and socio-cultural change”. This method, largely influenced by Foucault and his studies on the concept of power, concentrates on how discourse is used to exercise power by setting rules, policies and procedures to discipline and make people obey to this power's authority (Bryman, 2012: 536). Discourse is defined more broadly here compared to classic discourse analysis:

“We define a discourse as an interrelated set of texts, and the practices of their production, dissemination, and reception, that brings an object into being...In other words, social reality is produced and made real through discourses, and social interactions cannot be fully understood without reference to the discourses that give them meaning. As discourse analysts, then, our task is to explore the relationship between discourse and reality” (Phillips and Hardy, 2002: 3).

Fairclough (2001: 229-231) explains how critical discourse analysis throws a critical eye on social processes and procedures regarding the exercise of power, examining how language is used to serve ideologies and promote certain agendas. This way, we can understand more about how power and hegemony are exercised in society, with language serving as the medium, through which we can study “wider social and cultural changes” in social practice



(Fairclough, 1992: 5). Thus, one could argue that critical discourse analysis is, in a way, a more politically-orientated version of discourse analysis.

#### *iv) The steps of discourse analysis*

Unlike the goals of discourse analysis, which are easy to define, the method itself is difficult to pin down and explain in the form of key steps researchers must follow. Potter (1997: 147-148) sees discourse analysis more as a “craft skill” than a method that can be described in a sequence of stages. This denotes the uneasiness of many to provide an explanation in the form of a textbook on discourse analysis.

A point where most discourse analysts agree on is *coding*. A starting step is to categorise discourse into “manageable chunks” (Potter and Wetherell’s, 1987: 167). These chunks or thematic codes will be usually based on pre-existing research questions or topics the researcher has, while other times these questions/topics may follow the thematic codes, emerging from the analysis, which in these instances has come first (Potter and Wetherell, 1987: 167). Almost certainly these thematic categories will be broad at first to include as much information as possible and will then be refined as the text is being re-read and the analysis proceeds (Potter and Wetherell, 1987: 167). Braun and Clarke (2006) provide an account of what this thematic analysis entails. They define the term *theme* as a section of the examined data that has a significant relationship to the researcher’s questions providing a “patterned response or meaning” (Braun and Clarke, 2006: 82). Still, Braun and Clarke (2006: 82) support flexibility regarding what proportion of data a theme has to cover, advocating that the “keyness”, meaning prevalence, of a theme is non-quantifiable, but has to remain flexible. Thus, a theme might be prevalent because it appears many times and in large sizes in the text; or it is referenced by many speakers or texts irrespective of the size and length of discourse dedicated to it each time; or it might be more rarely appearing compared to other themes, but still provides a crucial and targeted response to a specific issue related to the researcher’s questions (Braun and Clarke, 2006: 82). Therefore, the key when identifying themes is to balance between the need for the theme to be prevalent, along with the necessity to retain flexibility regarding what defines this prevalence.

Other than coding, the analysis does not follow specific steps, but just “involves a lot of careful reading and rereading” (Potter and Wetherell, 1987: 168). The goal is not to produce a summary

of the text, but to read it critically (Potter and Wetherell, 1987: 168), trying to pin down the elements seen above, which constitute the aims/goals and focus points of this method. Taylor (2001: 7) mentions some types of discourse analysis depending on the object of research: discourse analysis might study how language differs according to the intended recipient/setting, study the conversation between two or more parties as an active process, how language describes a particular topic or the use of language in a broader societal context, regarding certain categories of people or activities. An overarching principle of discourse analysis is that people use the language and words that are “culturally, historically and ideologically available” (Billig, 2001: 217). So the researcher is examining what language is chosen and how this language describes and presents something, rather than whether the description is an accurate representation of reality (Potter and Wetherell, 1987: 160). The examined object is not language as a medium, but language itself, what part/side of reality is promoted, how it is promoted and not whether this reality agrees with the objective truth that lies out there (regardless of whether such an objective truth exists or not).

#### *v) Critical document analysis*

Here, I intend to describe the methodology and goals of my own document research, namely *critical document analysis*. To begin, my analysis is critical, in the sense that, like critical discourse analysis, I threw a critical eye on UK policies on trafficking, examining issues of power, authority, social relations, as well as political and ideological choices on human trafficking. I was particularly interested in the images of victims and perpetrators put forward in policies, but my focus also concerned the goals/intentions of Westminster and the devolved governments regarding trafficking, the policy choices made and generally how trafficking is regulated/governed. As stated in chapter 3, questions around the balance of power and responsibilities between agencies, first responders and UK nations were also relevant.

My analysis was informed by discourse analysis following its basic principles and rationale of closely studying texts’ language to examine what realities they construct and promote. What differentiates it to discourse analysis is mainly the depth and level of detail, meaning that my method did not reach the granular level of detail that discourse analysis usually does. I did not aim to pick on every word and phrase of the language used in texts to completely deconstruct them, neither did I aim to conduct a thorough investigation of the linguistic modes and syntax of texts, as a discourse analyst would do, but aimed mostly to understand the basic ideas, images,

representations and themes these documents promote around human trafficking, victims and perpetrators, along with the overarching ideology that drives them. I aimed less at achieving a word-by-word fine-grained analysis of discourse and more at getting a sense of how language operates in key UK policy documents, examine the overarching rationale that underpins the NRM's operation, as well as what language reveals about how victims and perpetrators are viewed in official UK discourse and about the goals/intentions of Westminster and the devolved governments regarding trafficking.

Thus, my interest revolved more around a theme-based critical analysis (Bryman, 2012: 578-580) that critically elicits and draws themes pertaining to representations and images of victims and perpetrators and the declared goals of Westminster and the devolved governments. The NRM, as every system, was not built in a vacuum, but is the result of policies encapsulating official choices and goals of governments and policymakers. Following Potter and Wetherell (1987), I examined the chosen language and how this describes victims, traffickers and UK goals. In summary, my critical document analysis helped me understand the NRM's ideological structure, aims and framework of operation. Serving as a key step for my study, it produced data that made me reflect and provide answers to my first sub-question on how victims and traffickers are viewed and presented in British official discourse and what is the official approach to trafficking (for Westminster and devolved governments). The data retrieved through the document analysis helped lay the groundwork for my interview-based research, informing and framing my interview questions, and was also subsequently compared to the interviews' data on the images of victims and traffickers and the UK trafficking goals.

My research questions regarding the examined documents were: How are victims and traffickers presented? How is the human trafficking phenomenon presented? What perceptions about the main actors and human trafficking are promoted and supported? Generally speaking, what social reality do documents promote regarding trafficking and its main actors? Do these documents promote a binary distinction between ideal victims and evil traffickers and, if yes, how and to what extent?

These questions resulted in findings that helped me draw comparisons with the interviews' findings. The main questions here were: Are the documents' representations of victims and traffickers coinciding with those painted by the interviews or are there any discrepancies? What does the answer to this imply for the way the NRM is structured and operates? Has it captured the full range of victims and traffickers as that was promoted by literature or not and what does

that further imply? What are the goals of the UK? How idealistic or realistic do they read? Are they feasible? Are they achieved? What do the interviewees think? These are questions which helped unravel how the UK NRM operates and how trafficking is regulated across Britain, simultaneously providing the starting point of my efforts to find the NRM's benefits and shortcomings and assess whether these are attributed to the discourse that policies promote.

Methodologically speaking, my approach to each document started with the above questions in mind. Naturally, I read each document more than one time to analyse it in depth, following Potter and Wetherell's (1987) suggestions on the importance of careful repetition of readings with a critical mind towards the language used. Following Braun and Clarke's (2006) notion of the need to balance between finding the key themes and retaining research flexibility, I was also broadly inspired by their steps of thematic analysis. Thus, at the very first reading of each document, I tried to familiarise myself with the data, simply reading the text without coding it, trying to locate broader language patterns, as Braun and Clarke (2006: 87) propose. Then, I reread the text with my aforementioned pre-existing research questions guiding me, but simultaneously with an open mind and flexibility, trying not to strictly frame and limit my research scope, thus being in danger of losing crucial data and themes, which I had not predicted I would find. To get all the emerging codes, I decided to copy and paste the data collected in Word files as quotations, in as many categories as needed, even if some categories were initially too broad, overlapping or if the same quote was included in more than one category. The subsequent re-readings of each text helped me polish these categories and fit them better to my research questions. This process might seem somewhat mundane or time-consuming, but as Bryman (2012: 576-577) notes, it is a vital step to interpret and analyse data. In the final readings, I looked at the layout and general appearance of each document.

Coding was a key process for my analysis. I managed to establish codes, refine them, merge overlapping concepts, completely delete others, rephrase or create new ones, whilst some quotations were still included in more than one category, as they contained references that, I felt, were related to more than one issue. This refinement of codes, which led to my final list of coded data, made me reflect on a broader level and start combining the codes identified to create broader themes, as Braun and Clarke (2006: 89) suggest. For instance, I had identified codes such as "police-NGO cooperation", "NRM agencies collaboration" or "transnational police forces cooperation", which together were merged to create the broader theme of "inter-agency cooperation". Along with the establishment of these themes, I started taking notes next to the quotations that constituted a first, raw analysis of the themes gathered, while I also started

highlighting words/phrases that specifically answered my research questions, contained key words giving an indication of the language used regarding trafficking or were painting a certain image of the victim, trafficker, authorities or the trafficking experience/situation. These notes and highlighted key words/phrases were used as the foundation for my written analysis, which I started drafting afterwards.

Obviously, the first factor deciding “keyness” of a theme was my research questions. The frequency in which I encountered a theme (e.g. theme of “trafficking elimination”) coupled with the size dedicated to it (e.g. the theme of “inter-agency collaboration/cooperation” was both a sizeable and frequent theme) were crucial, while other codes/themes such as “domestic traffickers” were important exactly because they were infrequently encountered, with this particular theme appearing more frequently in later documents like the *Typology of Modern Slavery Offences*. The key themes identified in my research were: “image of victim”, “image of trafficker”, “trauma”, “trafficking experience”, “inter-agency cooperation”, “ties with other policies/legislation”, “trafficking elimination/eradication”, “companies’ responsibility/corporate side of trafficking”, “UK goals/intentions”, “self-praise”.

#### **4.4 Qualitative Interviews**

##### *i) Overview and justification for using interviews*

To get a complete overview of the NRM and a broad range of viewpoints, pinpoint its problems and achieve my research objectives of understanding how victims and traffickers are viewed (this time by practitioners), how the NRM deals with victims and uncover more on the interplay between immigration and trafficking regulations, I decided to conduct qualitative interviews with victims and practitioners/stakeholders in the UK. Qualitative interviews allow researchers “to find out from [interviewees] things that we cannot directly observe” (Patton, 1990: 278) achieving depth and a more accurate knowledge of the interviewees’ feelings, opinions, motives and actions (Arksey and Knight, 1999: 32), especially when compared to quantitative methods. Through interviews, I felt I would be able to hear more about the interviewees’ backgrounds, stories, experiences, as well as their accounts of the NRM and the British criminal justice

system from their individual standpoints. By interviewing victims and practitioners, I would be able to get different views and compare the victims' experiences to the professionals' perspectives and the professionals' views to one another.

A more unstructured form of interviews -almost narratives- was chosen for victims, which would allow them to talk freely and provide more details in the form of stories. In this case, elaborating in depth, or even rambling on, would be welcome on the part of survivors. A narrative in this case is preferable to a more structured form, which would potentially restrain survivors, put unnecessary pressure on them and not allow them to feel comfortable. As Riessman (2008) suggests, narratives are more suitable when the interviewee needs to reflect on his/her life or a prolonged life period, such as the trafficking experience, while Miller (2000) adds that narratives succeed at getting more in-depth perspectives of how interviewees experienced an event or time period rather than just giving dry facts and descriptions of a case.

Simultaneously, I felt that semi-structured interviews were more suitable for professionals, where the interviews would be guided by more specific themes shaping my questions. Still, the possibility of practitioners rambling on, focusing on some issues rather than others or giving long stories of their NRM experiences was always welcome and achievable through semi-structured interviews, since they also give interviewees "a great deal of leeway in how to reply" (Bryman, 2012: 471). As Bryman (2012: 471) adds, semi-structured interviews are led by an interview guide, but the interviewer is always free to change the order and wording of questions, according to the needs of each interview. This justifies Arksey and Knight's (1999: 39) view of qualitative interviews as a "jazz improvisation", where the researcher is basically playing by ear, feeling the vibe of each interview and adjusting accordingly. The interview guides for victims and professionals can be found in Appendices 3 and 4 respectively.

I conducted 22 qualitative interviews with practitioners, 1 qualitative questionnaire with a Scottish Government official and 1 interview by proxy with a domestic female human trafficking survivor who has been through the NRM and received a positive conclusive decision. The interviews with professionals included workers, managers and directors coming from a broad range of NGOs (involved in the treatment of victims, holistic support, legal support) in Scotland and England, Scottish Parliament politicians, Police Scotland, Police Forces in England, SOCA, GLAA and the UK Government.

Thus, I was able to get the victim's and professionals' opinions on the NRM, on how victims and their needs are dealt with by the NRM, on the relationship between trafficking and immigration,

as well as hear the interviewees' experiences and stories regarding trafficking, which in turn revealed findings on the images of the victim, the trafficker and the planned UK goals. Consequently, the interview data was compared with the document data on the representations of the victim, trafficker and UK intentions on trafficking. This helped provide answers to the first research sub-question on how victims and traffickers are viewed in the UK and what is the UK approach to trafficking. This was crucial, as it aided my understanding of the NRM *foundations*, meaning the key representations of victims/traffickers and the UK goals/intentions. The views that stakeholders had on the NRM were also compared with each other in the form of a *triangulation*, defined by Bryman (2012: 717) as "the use of more than one method or source of data in the study of a social phenomenon so that findings may be cross-checked". Therefore, I was able to compare and validate data through cross verification (survivor's views compared to professionals' views and different professionals' views compared to one another) painting a fuller picture on the NRM and how trafficking is regulated in Britain.

Some interviews with professionals were conducted through Skype/Whatsapp video/audio calls. O'Connor et al. (2008) fear that physical connection along with non-verbal gestures and modes of expression, which are visible in face-to-face settings, are lost in distance interviews. Chen and Hinton (1999) with Hay-Gibson (2009) agree, emphasising how these online tools create challenges for both parties to establish good connection and communication, whilst Opdenakker (2006) comments on how difficult it becomes to create a positive environment between the two parties. Yet, Deakin and Wakefield (2014) discussing their PhD-related experience with using both Skype video and audio calls, illustrate how distance interviewing was not meant to substitute face-to-face interviews, but simply to provide access to otherwise unattainable interviewees. This relates to my experience as well, since I also used Skype/Whatsapp video/audio calls being aware of the aforementioned limitations, not with the intention to replace face-to-face settings, but to gain access to interviewees residing far away from me (e.g. UK NGO workers 1 and 2, English Officers 1 and 2, GLAA representative) reduce research costs (Deakin and Wakefield, 2014) and thus include the voices of important practitioners, which would have otherwise been costly, time-consuming and difficult to achieve. Having exchanged a series of e-mails before the actual interview and employing the usual opening questions during interviews, where I first asked about the interviewees' position or caseload, I tried to break the ice and establish rapport. Even though I missed on many non-verbal cues, especially in audio calls, in my experience with distance interviewing, I observed that all participants felt secure and comfortable enough to open up and in no way did I feel that any of my distance interviewees

were reserved to contribute. This aligns with Deakin and Wakefield's (2014: 610-611) observations that exchanging e-mails with distance interviewees before the interview is key to establish good rapport, as well as that the quality of responses received in online interviews was more or less similar to that of face-to-face interviews.

Regarding the trafficking survivor, whom for the purposes of this research I shall name Eve, it is worth mentioning the reasons why this interview was not carried by me personally but by a proxy interviewer. After managing to locate a survivor willing to open up about her trafficking and NRM experience (more details on how this interviewee was located will be provided below, in the *Sampling* section) we proceeded with planning the interview. Unfortunately, Eve resided in an area of the UK that was quite far from Edinburgh, the city I resided and generally very remote, making it rather inconvenient to travel to from the Scottish capital. After exchanging texts and talking over the phone, it was obvious that Eve did not feel comfortable travelling to the closest main city, which I could approach more easily and instead she preferred to be interviewed in her small town of residence to which I agreed. Due to my ethics application approval process and to adhere to the rules set by the Ethics and Integrity Committee of the School of Law for ethical research, I either had to interview her in the auspices of a supportive NGO or in the unlikely case of interviewing outside, I had to have the number of an NGO or caseworker in hand, if I needed them to intervene. However, Eve's small town of residence did not have such NGOs available, with the closest located an hour away in the nearby main town. The hour distance did not qualify as a close enough location for a caseworker to intervene quickly in a case of crisis. The caseworker with whom I was talking to and who was not the lead I used to track the victim, but a caseworker identified by Eve as a closely residing person she was still in contact with, was staying in this main town and could not travel to the small town with me during the dates both I and Eve had identified as suitable for the interview. Therefore, we all decided that, since the three of us could not be present simultaneously within the coming weeks and since I had the ethical clearance by the Committee to hold a proxy interview, the best course of action would be for such an interview to take place between the caseworker and the survivor. The caseworker held a 54-minute interview, where he/she asked the questions I had sent him/her via e-mail, recorded the interview and sent it to my University OneDrive storage area.

The above underline the difficulties surrounding research with "hard-to-access and vulnerable" populations, as Goode (2000) identified in her research on drug and alcohol-using mothers. Goode (2000) established a series of factors that made drug/alcohol-using mothers hard to



reach: the illegal character of substance abuse, the side-criminal activities participants were often engaged in to finance their addiction, being “on the run” from police, marginalisation and stigma. In my case, trauma, stigma, marginalisation and fear of traffickers definitely impacted on securing a face-to-face interview with Eve. More details on the sampling process and the ethics surrounding this interview will be given below in the *Sampling* and *Ethics* sections.

I chose to treat Eve’s interview and present its findings as a case study, dedicating a standalone chapter to it. Eve’s interview gave me the opportunity to conduct an in-depth analysis of this single case, paying respect to Eve’s individual and unique experience as a domestic victim trafficked for sexual exploitation, a historic case of trafficking which started from childhood/teenagehood to adulthood and as an NRM service user. This goes in accordance with Stake’s (1995) observations on how a case study research gives the opportunity to dive in the unique and complex nature of the particular case in hand, whether that case is a single community (Whyte, 1955; Gans, 1962; O’Reilly, 2000), a single school (Ball, 1981) a single family (Lewis, 1961) or a single organisation like a police precinct (Holdaway, 1982, 1983). Shaw’s (1930) famous study of Stanley, the “jack-roller”, with its unprecedented depth and life history/biographical approach, comes in mind when studying a single person as a case study. As Bryman (2012: 66-68) explains, the focus of the case study is on conducting an in-depth, intensive examination of a single unit to elicit as many details as possible. In my case, the use of a proxy interviewer did not allow me to reach the depth Bryman (2012) talks about and which is so characteristic of the case study method. Ideally, I would have been able to personally conduct more than one interview to achieve the desired depth. Nonetheless, the findings from Eve’s interview, as undertaken, are very powerful, her descriptions are very detailed and sometimes shocking when it comes to how she was treated by traffickers or by the NRM and her account, even though given within an hour, reads so honest and natural that it did not feel right to simply incorporate her views and experiences in the rest of the Findings chapters, treating her as just one of the interviewees. This would dilute and distort her voice, burying the details she so willingly shared. After all, as Bryman (2012: 70-71) supports, a case study is predominantly known for its depth and not so much for the *generalisability* of its findings. What matters is not whether the findings can be generalised to a wider group (e.g. all victims), but whether they substantially help the research goals and support the theoretical arguments (Bryman, 2012: 71). Eve’s account was very helpful in that sense, provided key views, which either confirmed or contradicted the findings from other interviews, gave insights on how domestic survivors were treated by the NRM with reference to other victims sharing the same

characteristics as her and despite its short length, her interview showcased Eve's unique relationship with her traffickers and the impact the NRM framework had on her psychological state and chances of reintegration.

Last but not least, an unexpected turn of events in my empirical research was the need to design and use a questionnaire to substitute interviewing the Scottish Government officials. After being introduced to a team of Governmental officials, I e-mailed them expressing my request to interview them. After rounds of negotiations and e-mails, they suggested using a questionnaire with open and closed-ended questions, so that one or more of them could fill in at their own time. I proceeded to drawing the said questionnaire, which after being approved by my supervisors was e-mailed to them and completed within the deadline set by me. A copy of the questionnaire can be found in Appendix 5. The interesting part was not just that I had not predicted or ever designed a questionnaire before, but that this questionnaire was not a quantitative method of eliciting data, but a different way of conducting a qualitative interview. In other words, it was an interview by distance, specifically asked by and designed for the Scottish Government officials. As Jansen (2010) says, when we refer to surveys, such as questionnaires, we usually mean quantitative ones, where the researcher's goal is to identify frequencies, meaning how many people believe the x view or how many times the y answer was recorded. However, qualitative surveys aim to identify the diverse viewpoints and experiences of respondents and not the frequency of their answers (Fink, 2003; Jansen, 2010). Qualitative surveys are often used as a complement to quantitative surveys, creating a mixed-methods approach for researchers. The goal is for the data elicited from the closed-ended questions of a quantitative survey on the frequency a specific answer is chosen to be combined with the data elicited from more open-ended questions, which ask participants to expand on their views/experiences on a specific matter. An example of this is Canda, Nakashima and Furman's (2004: 26) research on "ethical concerns regarding religious and nonreligious spiritual issues in clinical practice settings".

In my case, the questionnaire was designed with closed and open-ended questions based on the pre-existing interview guide for professionals. The questionnaire was completed by one official and elicited no quantifiable data, but simply qualitative answers to my questions. As regards ethics and after consulting my supervisors, we decided that this method was simply a qualitative interview by distance and therefore was covered by the ethical approval already granted by Law School. I e-mailed the respondent the Participant Information Sheet and Informed Consent Form, which was returned to me signed by e-mail and post.

The limitations though, especially when considering the interviewee's profile were evident. This interviewee falls under the term "elites". As Mikecz (2012: 482) says, finding elites, meaning participants of a high rank/status, is easy due to their visibility, but "getting a foot in the door", securing an interview with them, gaining their trust and making them open up is extremely challenging. Thus, the interviewer should show knowledge of the elite's background and preferences regarding communication modes, patience, respect to their busy timetables and adaptability (Mikecz, 2012), something I tried to show by adhering to the officials' request for a qualitative questionnaire. Still, the questionnaire produced limited data, with many questions being answered with a simple "N/A" or a sentence referring me to a policy (e.g. Scottish Government's Trafficking and Exploitation Strategy). This made me reflect whether this questionnaire was the right method given the respondent's status. Elites tend to be interviewees who are able to protect themselves from being exposed to criticism, talk without going in much depth or even just give the official line of the organisation they represent (Mikecz, 2012: 484). This may potentially undermine the quality and depth of data due to this often-encountered reluctance of elites to elaborate further (Mikecz, 2012; Thuesen, 2011). I feel that the questionnaire constituted an indirect way of researcher's patronisation by an elite (Healey and Rawlinson, 1993), helping them raise an even greater wall, distancing themselves from any chance of in-depth questioning, eventually leading to responses which did not produce significant data.

## *ii) Ethics*

Since my research included human participants, I needed a level-2 ethical clearance from the Research Ethics and Integrity Committee of the School of Law of the University of Edinburgh. In Appendix 6, I have attached the Level-2 Ethics Form of the University of Edinburgh and Supplementary Form A, as approved by the Committee. Interviewing people is a sensitive business, as the research must not harm anybody physically or psychologically during fieldwork or later, when writing the paper and producing results (Rapley, 2007: 25). Thus, I started the process of interviews only after I received full ethical clearance from the University's Committee. I also followed research protocols and forms of ethical clearance my gatekeepers (e.g. NGOs, statutory services) had in store. An example was the ethical approval needed by Police Scotland for my interviews with its Human Trafficking Unit. For increased accuracy in the data collection process, I decided to audio record all interviews using Law School's recorder, from

which I deleted all records before returning it. Before all interviews, I gave my interviewees a copy of the Participant Information Sheet (see Appendix 7), where the scope of my research and the rights of participants (e.g. right to withdraw at any point of the interview or even after the interview ends) were described and an Informed Consent Form for them to sign and return to me (see Appendix 8).

For the Skype/Whatsapp distance interviews, I e-mailed the Participant Information Sheet and Informed Consent Form before the interview, and had participants send back to me a scanned copy of the signed Consent Form and the physical signed copy by post. I gave all participants the opportunity to ask for a copy of the Informed Consent Form, signed both by them and me, but none exercised this option. In addition, I briefed in all participants orally before the start of the interview about my research goals and their rights, making special reference both in the Sheet, as well as in my opening statement about my intention to record these interviews. Therefore, I abided by the basic rules of ethical research, according to which all interviewees were fully informed prior to the interview about the topic and goals of the research (Rapley, 2007: 26). All participants agreed to be audio recorded. During the interviews with Politician 1 and the UK Government Official, their personal assistants were present, so I had prepared a Confidentiality Agreement for them (see Appendix 9).

Regarding Eve, a further ethical complexity was caused by her vulnerability as a trafficking survivor, an issue spotted by Goode (2000) when studying drug/alcohol misusing mothers, who were also vulnerable and in need of support, which they were often not getting. Biddle et al. (2013) discuss the risk of exacerbating trauma and distress when interviewing traumatised and vulnerable people, with Rivlin et al. (2012) suggesting that participation in research can have beneficial, therapeutic and cathartic results for vulnerable individuals. My experience with interviews starting from my MSc studies, my short career as a lawyer dealing with a range of clients, as well as the experience of my supervisors with interviewing vulnerable groups such as refugees, helped me identify and understand the ethical risks. Thus, I was prepared to hold face-to-face interviews with survivors preferably in the protective environment of an NGO with caseworkers in the vicinity ready to intervene in a time of stress/discomfort to minimise risks for the interviewee or myself. I was also prepared to deal with the scenario where a caseworker would be present during the interview, a case which, as Zipp and Toth (2002) suggest, may cause interviewees to be more reserved, making the data collected somewhat biased. In the unlikely case an interview had to be held outside an NGO, I would have the number of the organisation supporting the victim to call if there was a crisis. As for me, I would use my

supervision context as an opportunity to debrief. Regarding the victim's interview by proxy, a scenario we had anticipated with my supervisors and included in my ethics approval application and since a third person was involved, I prepared an Interviewer Confidentiality Agreement (see Appendix 10), an Interviewer Briefing document (see Appendix 11) containing step-by-step instructions on how to conduct the interview, a Participant Information Sheet and an Informed Consent Form for the survivor (see Appendices 12 and 13).

The different structure of the Informed Consent Forms for professionals and victims respectively is because the University's template for consent forms based on the *General Data Protection Regulation* ('GDPR') came to my attention after I had conducted all practitioners' interviews and before Eve's interview. However, the content of both Forms covers the same points. A copy of Eve's interview, along with electronic copies of the Confidentiality Agreement and the Consent Form were uploaded by the proxy interviewer to my University OneDrive storage area, from which they were extracted, safely transferred to my University storage area and deleted immediately from OneDrive. The physical copies of the signed forms were also mailed to me.

Anonymity and confidentiality are guaranteed with the use of vague descriptions based on positions/occupations instead of more accurate details/descriptions, which might identify participants (Kvale, 2009: 272). However, attention must be paid, so that the key characteristics of interviewees, which if changed might lead to misinterpretations and distortion of data, remain the same (Kvale, 2009: 272-273). For instance, if the interviewee is an NGO Manager or Director, then that would be specifically mentioned. I use my initials (KG) and PI for the Proxy Interviewer. When presenting Eve's story, I do not anonymise Salvation Army whenever Eve refers to them, since Eve was a survivor referred in England and therefore the Salvation Army, as the main victim care contract holder there, is naturally involved, as is the case with every victim in England. I am not naming the local subcontracted organisations that Eve accessed, though, as that would potentially reveal her location. The aliases/pseudonyms used for interviewees are:

Alias	Organisation of Interviewee
Scottish support providing NGO workers 1-4	Workers 1-3 coming from the first NGO and worker 4 from the second NGO contracted by the Scottish Government to support victims

Scottish support providing NGO Managers 1 and 2	NGO contracted by the Scottish Government to support victims
UK NGO Legal Director	UK NGO advocating for the rights of trafficking victims
Scottish legal NGO Director	Scottish legal NGO
Scottish Politician 1 and 2	N/A
HTUPS officers 1-4	Human Trafficking Unit of Police Scotland
SOCA agent	Serious Organised Crime Agency
GLAA representative	Gangmasters and Labour Abuse Authority
UK NGO worker 1 and UK NGO worker 2	Non-support providing UK NGOs advocating for victims
Scottish NGO Manager	Scottish non-support providing NGO advocating for victims
English officer 1 and English Officer 2 (specialised in slavery, trafficking and organised crime)	English Police Forces
UK Government official	UK Government
Scottish Government official	Scottish Government
Eve	Trafficking Survivor

Confidentiality was guaranteed except under circumstances in which information came to light indicating that the interviewee or someone else was at serious risk of harm. Goode (2000) also came across the ethical dilemma of what to do if an interviewee disclosed criminal activities. She found that a researcher could be held liable as accessory to a crime, if he/she fails to report it. I and my supervisors decided that I would disclose any reported criminal activities revealed in interviews to the NGO, through whose auspices I would be undertaking the fieldwork. Regarding Eve, the disclosure would be directly to the proxy interviewer conducting the interview. Finally, all the data gathered was kept in the University storage area, password protected and accessible only by me and my supervisors through me and will be deleted after the end of the project. Additionally, it was pointed out in the Participant Information Sheet that the “data collected for this study will be presented within the main researcher’s PhD thesis, and may be included anonymously in published articles and conference presentations”.

### *iii) Sampling*

My aim was to have 20-25 interviews with practitioners and 1-5 interviews with victims, who had preferably been through the NRM, keeping open the possibility of interviewing victims who rejected going through the NRM, thus focusing on the drivers behind their decision. I managed to conduct 22 interviews with practitioners, 1 questionnaire with the Scottish Government and 1 interview by proxy with a trafficking victim that has undergone the NRM process.

The sampling techniques used included *purposive* and *snowball sampling*. The sampling and recruitment of participants was based on my research questions, which denotes my choice of purposive sampling (Bryman, 2012: 416, 418). Since my research is trying to examine how trafficking is regulated in the UK and the NRM's operation, I wanted to ask professionals about their views on the current legislative and policy framework, as well as on the NRM. Therefore, I started by contacting the NGOs contracted by governments to support victims. I also contacted Police Scotland, GLAA, the Scottish Government and other NGOs, which might not be officially contracted support providers, but are still active in the field, advocating for victims' rights. In most cases the contact details of the interviewees were easily retrieved online. In other cases, I managed to obtain these details through networking, meaning a process where I introduced myself in an anti-trafficking event to representatives of organisations, explaining my research to them, exchanging contact details and recruiting them or other workers from their organisations for my project. Snowball sampling was employed too, in the sense that the Manager of a Scottish support-providing NGO gave me the contact details for several other organisations, serving both as a research participant and a medium for tracking down other interviewees (Bryman, 2012: 424).

The case of the two English police officers is one where both theoretical and snowball sampling were applied. Glaser and Strauss define theoretical sampling as:

“The process of data collection for generating theory whereby the analyst jointly collects, codes and analyses his data and decides what data to collect next and where to find them, in order to develop his theory as it emerges. The process of data collection is controlled by the emerging theory, whether substantive or formal”. (Glaser and Strauss, 1967: 45)

Both I and my supervisors identified a gap in data coming from the English law enforcement side. Since I had interviewed Scottish officers, it felt necessary to also interview English officers,

who could add to my project from their standpoints. Thus, the data gathered from police would be more complete, as I could get an image of both the Scottish and the English law enforcement landscape to use and compare. To identify English officers with experience on slavery/trafficking, I contacted the HTUPS who kindly gave me leads to explore in England, making this a snowball sampling case too.

Eve's interview is another case of snowball sampling. An NGO professional/interviewee gave me the e-mail address of a colleague from another city who, after asking for my permission, passed on my details to the survivor informing her that there was a PhD researcher looking for victims to conduct qualitative interviews on trafficking and the NRM. Following that, Eve e-mailed me and our negotiations for an interview started. This relates to Goode's (2000) observations that snowball sampling is a good way to gain access to vulnerable and hard-to-reach populations. Taylor (1993) agrees, emphasising the use of formal gate-keepers, such as social or support workers to introduce the researcher to the vulnerable prospective participant. The survivor's profile was that of an adult non-white British female victim trafficked for sexual exploitation in England, while her trafficking experience commenced since early teenage years, approximately at 13, continuing steadily through adulthood and ending a few years ago. She went through the NRM three years before the 2019 interview, in 2016. These details make her case one with a history of trafficking, extending from teenagehood to adulthood.

In some cases, I managed to interview the same person I had initially contacted. In other instances, I had to go through one or more gatekeepers, with whom I had to engage in a "constant process of negotiation and renegotiation of what is and is not permissible" (Bryman, 2012: 151). This was the case with Police Scotland, where I had to go through several stages of gatekeepers and ethical approval. I also used a gatekeeper for my interview with the UK NGO Legal Director.

Evidently in a project like this, there could be more participants than the ones recruited. For instance, Mears Group or SERCO (current and former NASS accommodation providers), Border Force, COFPS, NHS, NCA or members of a CA/SCA could add interesting insights, while I failed to secure interviews with Northern Irish or Welsh organisations. The reason why these agencies were not included is twofold. Firstly, some of these bodies either rejected or completely ignored my request for an interview. In addition, for other organisations, I believe I had already reached theoretical saturation and therefore did not proceed with negotiating an interview. As Bryman (2012: 425) explains, it is difficult to pin down at the start of each project



how many interviewees are needed. My rough estimation was that I would need about 20-25 individuals from a range of organisations, given that the first responders for England and Wales are about 20 (counting police as one first responder) with Scotland and Northern Ireland having three more (TARA, Migrant Help, Women's Aid) (Home Office 2020a, 2020b), but also considering the series of non-first responder organisations on trafficking and homelessness, as well as my manpower and budget limitations. Warren (2002: 99) agrees with my estimate, supporting that a publishable study based on qualitative interviews needs approximately 20-30 participants. My interviews fell within the ballpark of my initial estimation. Turning to the concept of theoretical saturation, as Onwuegbuzie and Collins say:

“In general, sample sizes in qualitative research should not be so small as to make it difficult to achieve data saturation, theoretical saturation, or informational redundancy. At the same time, the sample should not be so large that it is difficult to undertake a deep, case-oriented analysis.” (Onwuegbuzie and Collins, 2007: 289)

Bryman (2012: 426) explains that the criteria for defining theoretical saturation are “more or less absent”, with Bowen (2008) adding that often researchers claim they have achieved it, but cannot explain it. In my case, the time limitation of the PhD programme, where 2<sup>nd</sup> year serves as the fieldwork year and 3<sup>rd</sup> year to write up the thesis with the possibility of adding a few more participants there, definitely played a crucial role in me stating that I reached saturation. In other words, there are evidently practical reasons surrounding my claim of saturation. Still, I am of the belief that the range of interviewees recruited was more than adequate. This is also backed by my observation that in some of my last interviews, I was recording views and data that was often repeating data already gathered.

Regarding Eve's case study, there are two main limitations. The first stems from the very nature of the case study method, namely the ability to generalise findings. It would have obviously been easier to produce data and conclusions concerning a wider group of survivors, had more victims of a larger variety in background been interviewed. It would have been helpful to have interviewed other domestic or foreign female victims exploited in different areas of Britain or for reasons other than sex, whilst the research would be further enriched by interviewing male victims, who exceed female ones in referrals. The second limitation has to do with the time allocated for the interview, which was just under one hour, and the fact that it was conducted by a proxy interviewer. Gomes et al. (2016) support that using external interviewers is a challenge, which a researcher should be ready to take, if there are certain obstacles impeding them from

conducting the interview, suggesting that a key selection criterion for a proxy interviewer should be their knowledge of the researched topic in order to mitigate the risk of negative impact on the study's validity. In my case, while transcribing the interview, there were instances where I pictured myself asking a different probe question that would be more relevant to my research goals or press more on some issues, such as Eve's traffickers' identity, level of organisation or Eve's family background and relationship with them. Still, the proxy interviewer, based on their long-standing experience in the field and good knowledge of Eve's case, managed to ask his/her own probing questions, which I personally would not have thought of. A good example was the interviewer's focus on the word "rescue" and the question "What do you think about the notion of "rescue"? You know, you've been rescued. That's it, isn't it? You've been rescued?", which led Eve to reflect on and question the benefits received from the Mechanism.

Lastly, regarding dissemination, when briefing in participants before the interview, but also during e-mail negotiations, I specifically mentioned my intention to disseminate findings to them or their organisations, should they wished so. Some requested this, such as Police Scotland. I intend to fulfil my promise after the successful examination of this thesis.

#### *iv) Interview data analysis*

As stated in the beginning of this chapter, my questions were informed by theory and most of them were formed before fieldwork. However, as emphasised, this is not a one-way process, but an iterative one. This means that theory does inform and shape questions leading to data collection, as analytic induction suggests (Bryman, 2012: 566-567). But, so does data. This reminds us of grounded theory, where the researcher starts with a broader research question, refines it through data collection and coding, comes up with more questions that are usually more specific, subsequently leading to further data collection, sampling, more participants and eventually more results (Bryman, 2012: 571-572). Therefore, data serves not only as the answer to research questions, but also as a driver creating new questions.

The first step after each interview was transcription. Transcription, made easier by the use of an audio recorder, took place right after the interview and was conducted exclusively by me. On average, 1 hour of recorded interview time took 7.5 hours of real-time transcription. I transcribed everything verbatim, including expressions, pauses, hesitations or laughter. The result was a huge amount of data not in the form of piles of papers, as Beardsworth and Keil (1992)

reported, but of Word documents, password protected for security. Lofland and Lofland (1995) emphasise the need to hold off data analysis until all interviews are conducted and transcribed. However, I found that transcription itself is a great way to revisit the interview and get to know the data in more depth (Bird, 2005). This makes me conclude that the first step of interview data analysis is transcription itself.

Afterwards, I moved to manually coding the data. I did not use NVivo or any other programme, but similarly to my document analysis, I started coding the transcribed data using Word files where the data was copied, pasted and divided by codes/subheadings. Bryman (2012: 576) stresses the importance of coding as soon as possible and the need for repeating the coding process to refine the codes created. The process and rationale behind my interview data analysis was similar to the one described above for documents. I followed the basic principles of critical discourse analysis here too, studying how language was employed and what realities my interviewees were constructing with their accounts (Potter and Wetherell, 1987), also relating that to my interviewees' backgrounds. NGO interviewees usually differed to law enforcement ones, as will be evident in findings. For instance, the former tended to be more critical of the NRM because of their professional standpoint as advocates for victims compared to the latter, who were more focused on the NRM's positives and how it ultimately assists investigations by placing survivors in safe houses, ensuring stability and making survivors available for police any time they needed them.

As happened with documents, Braun and Clarke's (2006) steps of thematic analysis were key here too. The first reading helped me familiarise myself with the data and identify rough patterns. The following readings led to the emergence of a large number of rough codes, usually guided by the topic of the respective question I had asked (e.g. an answer given to a question on victims' accommodation would be coded with the generic title-word "Accommodation"). As happened with the document analysis, the subsequent readings of the initial codes led to some being refined, others merged and others eliminated, if they neither addressed any of my questions nor led to the creation of new ones, therefore providing data that was not useful for the scope of my research. For example, data on NRM form completion and first responders' identification skills would both go under the umbrella code "NRM's first stages".

Following Potter and Wetherell's (1987) suggestions on reviewing codes and constantly re-reading data, I started making connections not only to my research questions, but also to broader theoretical ideas and concepts. For instance, one of my findings was that non-EU

victims were often placed in NASS accommodation along with asylum seekers, which was deemed unsuitable by some participants due to the different needs of these two groups. Consequently, I tried to go beyond that piece of data asking questions such as: Why would a Government follow this practice of mixing trafficking victims with asylum seekers consistently, despite some opposing voices from various organisations raising concerns about the negative effects this may have in the psychosocial state of a survivor? What does this tell us about the Government's plans or priorities? This question was also asked based on the data on the governmental attempts to reduce subsistence allowance. This shows what Coffey and Atkinson (1996) and Bryman (2012) observed about how specific codified pieces of data could be connected to one another, answering broader research questions, reaching broader theoretical conclusions or even forming new questions, which in turn call for further research.

#### **4.5 Summary**

In this chapter I explained my research methodology, meaning my general analytical strategies and the specific methods chosen for collecting and analysing data. I explained why I chose each method, how I went about collecting data, focusing on ethics, sampling and modes of data analysis. I tried, with openness and honesty, to be self-reflective on what I did right in terms of methods, but also on the methodological limitations and obstacles that arose throughout the process of conducting fieldwork. In chapters 5-9, I shall give the main findings of this research, as they resulted from the critical document analysis and the qualitative interviews, with the discussion of these findings in relation to theories, as well as the implications, limitations and call for future research following in chapter 10.

## Chapter 5

### Findings from the Critical Document Analysis

#### 5.1 Introduction

This chapter marks the beginning of a series of chapters (Chapters 5-9) where the findings from my document and interview-based research will be presented. This chapter is based on the document analysis of 18 anti-trafficking policies issued by Westminster and the devolved governments. Using my critical document analysis unfolded in chapter 4, I will first present the discourse, themes and images promoted around trafficking/slavery victims. Following that, I will examine the image of the trafficker, along with a final section on the goals and intentions of the various UK governments surrounding human trafficking.

The literature presented in chapter 3 supports the existence of a range of victims based on prior levels of consent or knowledge and a spectrum of trafficking experiences with some victims having been forced, threatened, coerced or abused and others not encountering such behaviours or even positively viewing trafficking as a contractual agreement or an opportunity for a better life and financial gain; simultaneously, fluidity between victims-traffickers and a range of organised, low-level or opportunistic traffickers was noted (Weitzer, 2014; Feingold, 2005; Molland, 2012; Jacobsen and Skilbrei, 2010; Surtees, 2008; Vocks and Nijboer, 2000, Hussein, 2015). Sharapov (2017) claims that early-2010s UK policies tended to idealise victims, with this idealisation shaping official perceptions as to how genuine they are, whilst demonising traffickers, presenting them as foreign organised criminals for the purpose of tightening UK borders. It is important to examine the representations of victims and traffickers promoted in UK policies, which serve as the *foundations* on which the NRM was built. This focal point is going to reveal how the Home Office, Scottish and Northern Irish Governments understand and communicate what trafficking is as a crime, how it is felt and experienced by victims, how the average victim looks and who the average trafficker is. To further understand how the UK regulates trafficking, it is necessary to identify what plans and intentions are promoted in official UK discourse.

Findings suggest that the main policy-based victim image is that of a more or less blameless figure, mainly foreign (but also domestic at times), usually deceived or threatened, while mainly the *Typology of Modern Slavery Offences* marks a tendency for policies, predominantly Westminster ones, to start focusing on the varying levels of prior consent/knowledge, the range of victimisation experiences and the existence of domestic victims. Findings also suggest that traffickers are mostly demonised, presented as mainly organised. Still, the tendency of -mainly- Westminster policies to start recognising the varying levels of traffickers' organisation and the existence of domestic traffickers is noted. Lastly, the UK goals are summarised by the phrase *total trafficking elimination*.

## **5.2 Image of the Victim and the Trafficking/Slavery Experience**

Findings suggest that victims are mostly blameless, mainly foreign, with references on domestic victims being evident too, and predominantly deceived or threatened with the Modern Slavery Typology showcasing the existence of grey areas regarding victims' consent and trafficking experiences.

Most documents portray victims in a sympathetic, understanding light, emphasising their trauma and proclaiming the adoption of a victim-centred approach. Starting with the *Modern Slavery Strategy*, a very grim, almost Dickensian picture is painted regarding victims' experiences. "The terrible exploitation suffered by victims, adults and children, really cannot be described adequately in words. It scars lives forever" (Home Office, 2014b: 7) the document states, adding:

"Young girls are raped, beaten, passed from abuser to abuser and sexually exploited for profit. Vulnerable men are tricked into long hours of hard labour before being locked away in cold sheds or rundown caravans. People are made to work in fields, in factories, and on fishing vessels. Women are forced into prostitution, and children systematically exploited. Domestic workers are imprisoned and made to work all hours of the day and night for little or no pay." (Home Office, 2014b: 5)

Victims are seen as “tricked” into believing they are smuggled, not knowing what is in store for them, “being brought to the UK expecting legitimate work”, “pressured into debt-bondage” while their families and themselves are often threatened and “coerced” (Home Office, 2014b: 15, 19). They are portrayed as forced into criminality, including “pick-pocketing, benefit fraud, shop-lifting, cannabis cultivation and drug trafficking” (Home Office, 2014b: 21). Employing Christie’s (1986) framework, this description brings in mind the notion of the ideal victim, as the average human trafficking victim, according to the Strategy, is a blameless, innocent figure, who played no part whatsoever in their victimisation. This aligns to Van Dijk’s (2009) notion of the victim’s label and how that is characterised by elements of passivity, suffering and that of a person meriting our compassion and understanding. This graphic idealisation of the trafficking victim is evident in the following paragraph:

“In few other crimes are human beings used as commodities over and over again for the gain of others. Victims endure experiences [...] horrifying in their inhumanity, including violence, rape, hunger and abuse. These are individuals who have often experienced other forms of abuse, exploitation, poverty or poor health prior to being enslaved. Their vulnerabilities are multiplied many times over by their experiences at the hands of traffickers and slave drivers. Stripped of their freedom and often exploited for profit, the damage inflicted on victims is incalculable.” (Home Office, 2014b: 27)

Looking at the *Interim Review of the NRM*, victims are again portrayed as traumatised, suffering, vulnerable and still in danger. They have “suffered profoundly traumatic experiences”, “it is [hard] to establish trust” and they “may have been threatened by their traffickers with punishments for family members if they speak to the police” (Home Office, 2014a: 2, 6). The tone changes regarding imposters pretending to be victims, as the new NRM must ensure that “those exploiting it [the system] are excluded from it with care and reason” (Home Office, 2014a: 10). As the Home Office (2014a: 6-7) notes, a great amount of resources and support are spent on potential victims, who may have received a positive RGD, but are later conclusively found not to be genuine survivors. This means that many have enjoyed NRM services and money has been spent without justification (Home Office, 2014a: 7). These findings correlate with De Giorgi’s (2010) classification of migrating populations to deserving and non-deserving by the receiving state and Pirjatanniemi’s (2019) notion of how trafficking survivors often fit the model of the idealistically victimised individual, who might be a migrant, but due to their special status as victims merit increased protection and support by the destination country. However, as

illustrated in chapter 3, this classification, stems by international legislation and how certain migrants (asylum seekers/refugees, trafficked victims) merit increased protection exactly due to having their rights grossly violated, which eventually transforms their migrating freedom from bare to basic (Miller, 2014). This divide found in the above policy reflects the divide between bare and basic freedom to migrate, implying that individuals exploiting the NRM pretending to be victims are excluded, exactly because they lack the basic element of trauma/vulnerability, which causes their freedom to migrate to fall back to a simple bare and no longer basic right.

Still, in documents directed to CAs, there is some recognition of “less straightforward cases”. The example of victims who consented to prostitution is mentioned, but still survivors “were misled as to the conditions of the environment, particularly the degree of control (over freedom and earnings) before they arrived” (Home Office, 2019c: 27). The Home Office (2019c: 45) also recognises that victims may have difficulties recounting their stories or being consistent, while the Northern Irish DoJ (2015b: 8) points out the existence of UK victims. Nonetheless, these are only short and scattered references compared to the general image promoted throughout these documents. Therefore, these descriptions serve more as exceptions rather than as central elements of the policy-based victim's identity. According to the 2018 Modern Slavery Report (Home Office, 2018a: 45) “potential victims from 116 different countries were identified in the UK in 2017” demonstrating “why it is essential to work with other countries in order to strengthen collective understanding and tackle modern slavery taking place in the UK”. This reference neglects domestic victims, despite their prevalence in NRM statistics noted in chapter 1. Looking back at the example of misled victims, even if that reference illuminates cases which might not fit the image of a perfectly deceived/forced victim, it still tries to purify these survivors, emphasising the use of deceit by traffickers and consequently the reduced responsibility of these victims.

The case studies included in policies provide further examples of that blameless victim image. Examining the 2018 UK Annual Report on Modern Slavery, the following case study showcases the elements of foreign victim, deceit, horrible trafficking experience, restriction of free movement and desire to escape:

“In December 2017, a Romanian victim was trafficked to Scotland for [...] sexual exploitation. The victim initially travelled to Scotland in the belief she was visiting for holiday. She was then transported to an address in Glasgow [...] by traffickers where she was assaulted multiple times, threatened and forced into prostitution just three



days after her arrival. The property was secured with a front door lock, and she was unable to leave. The victim eventually escaped and contacted police when the traffickers were intoxicated and left the front door open.” (Home Office, 2018a: 40)

Further examining the trafficking/slavery experience, this is presented as dark, traumatising and horrible. Looking at the *Slavery and Human Trafficking Guidance for Businesses in Scotland* (Scottish Government, 2018c) trafficking is portrayed as a crime that violates human rights, having “life-changing negative impacts for victims” (Scottish Government, 2018c: 3). It “is on the increase in Scotland, across the UK and worldwide” (Scottish Government, 2018c: 4). This observation is placed in bold in a separate bubble to increase its significance and help it stand out. However, there is no hard evidence to support this claim. As shown in chapter 1, the ONS (2020: 6) questions the reliability of estimations made on the ‘dark figure’ of trafficking/slavery due to these crimes’ covert nature and suggests focusing on the actual UK progress based on NRM referrals instead. Nonetheless, the way the above comment is made and placed in text, leaves an everlasting impression on the reader acquiring the status of a given and an unquestionable truth. The only data given to support this statement is that “the number of identified victims is increasing every year” (Scottish Government, 2018c: 4). However, the steady increase in referrals does not necessarily mean there is a corresponding increase in real trafficking, as this may well be attributed to increased awareness (ONS, 2020), increased focus of authorities or investment of higher budget to anti-trafficking efforts. Still, this possibility is not mentioned. “Human trafficking, the government suggests, is ethereal and difficult to quantify, yet it remains an everywhere phenomenon” (Sharapon, 2017: 94), showing the inherent contradiction between the admittance that trafficking is hard to measure and the certainty with which policies often promote this unquestionable rise in trafficking, simply based on the fact that referrals are increasing.

The UK policy *Transparency in Supply Chains* agrees, portraying slavery as a “heinous crime” (Home Office, 2015: 3). The Guide concentrates on the business side of slavery/trafficking, conveying that “modern slavery is a brutal way of maximising profits, by producing goods and services at ever lower costs with scant regard for the terrible impact this has on individuals” (Home Office, 2015: 2). The Northern Irish DoJ (2015b: 2) adds that trafficking/slavery offences are “life shattering crimes that degrade and dehumanise innocent men, women and children”, while later it adds that slavery is a “truly abhorrent practice” (DoJ, 2019b: 2). The *Victims of modern slavery frontline staff guidance (UK)* states that modern slavery is a “serious and brutal crime in which people are treated as commodities and exploited for criminal gain” (Home Office,

2016a: 8). This phrase is also used in versions 6 and 7 of the Home Office's (2019b, 2019c) *CA Guidance*. This shows how the Home Office not only reinforces this specific image of a horrible trafficking/slavery experience, but also follows a practice of copying/pasting phrases from one policy document to the other. Looking at the intertextuality of these documents, this common policy practice does increase continuity, consistency and emphasis. However, it also illustrates the bureaucratic and standardised way in which these documents are produced, without much attention to detail or intention to diversify and improve the description of the trafficking experience by adding more details. In other words, it seems as if the Home Office applies the same direction to all its documents, a 'one size fits all' approach, where the same description is repeatedly and monolithically used, despite the increase in referrals, which could help governmental agencies understand trafficking/slavery in more depth by engaging with more survivors and potentially a larger spectrum of trafficking experiences.

The images promoted by most policies above contradict the findings of many researchers, who emphasised that each case is different and many victims knew or consented (Molland, 2012; Jacobsen and Skilbrei, 2010; Surtees, 2008; Vocks and Nijboer, 2000) with Hussein (2015: 133) calling trafficking a "consensual agreement". Even in grey areas, where, for instance, the victim trafficked for labour consented to certain conditions, but ended up doing something substantially different and worse than agreed or when the victim unwillingly consented to something they disliked, but eventually accepted it (Weitzer, 2014: 15), Molland (2012: 100) observed that what occurs is the concept of "normalisation", the process of eventually accepting and willingly undertaking the new task after balancing the pros and cons of the situation. Therefore, these policies fail to concentrate on the crucial aspect of vulnerability driving human trafficking and pinpoint the push, pull and facilitating factors fostering this vulnerability (Europol, 2016: 10-12). In turn, this would have helped broaden the policies' understanding around consent and how the lack of it is not crucial in our identification of a case as human trafficking. After all, as Martinelli (2015) pointed out, a case is not trafficking only when there is full and free consent, skewed by no vulnerabilities.

Still, the *Typology of Modern Slavery Offences* (Home Office, 2017c: 47) recognises that trafficking experiences can vary, coinciding with the abovementioned literature. Regarding labour exploitation, the document admits that "not all were deceived about the conditions and nature of their exploitation. Where there was deception it was mostly about earnings and working conditions rather than the type of work", adding that victims of labour exploitation were promised a "good job" in the UK "but were deceived about wages and conditions" (Home Office,

2017c: 15, 17). Regarding sexual exploitation, “some [victims] knew they were going to be sex workers but were deceived about their earnings or working conditions” (Home Office, 2017c: 29). Therefore, the Typology contradicts Sharapov’s (2017) findings on how early-2010s UK policies were promoting a pure, blameless image for victims to corroborate their genuine victimhood, since this key document recognises a range of victims based on varying levels of prior consent and/or knowledge and the spectrum of trafficking experiences, pointing out that these people are still genuine victims and should be treated as such.

Yet, UK policies tend to view victims as passive recipients of support mechanisms, evidenced by the almost bureaucratic way in which protective measures are listed. The victim’s general state of “passivity” (Van Dijk, 2009) is thus reinforced. For instance, the Northern Irish Strategy 2019/2020 analyses the measures on how to protect and assist victims into recovery within five pages in the form of tables with short bullet points, in an almost technocratic way, reminding us of a document announcing economy measures rather than support provisions for traumatised individuals (DoJ, 2019b: 18-22).

Survivors are brought in the forefront in Scottish Government policies, where victims’ quotes are put in bubbles to stand out. Nonetheless, these quotes are almost exclusively devoted in wholehearted praise of the Scottish approach and services:

“I would like to take this moment today to thank you all for all the help and kind support.”

“I am very pleased with the service and I appreciated support. [...] They made me feel I was not alone, and I had someone who I can speak to for help and support. I want to say thank you for all your help and support. Please continue to help people like me.”

“Things are better. The good thing TARA gave me is a good welcome when I first met them. They supported me well. Good accommodation and clothing and also to make sure I was safe. They gave me guidance to cope with life’s difficulties I have been facing, with no discrimination. They do an excellent job. Thanks TARA.”

“I met with a solicitor after I got recommended by Migrant Help. I had many unclear questions regarding NRM and what’s best for me and many other reservations, but by meeting a solicitor I got answers of my questions. I met a solicitor for 30 minutes and I would say that was the best advice I had after submitting NRM.”

“When coming to The Anchor, I have received great support from all the staff [...] and enthusiastic attitude and sympathetic listening of the psychologists during appointments. It allows me to tell my deep secrets, which helps me mentally [...] I feel comfortable and relaxed coming here and knowing someone is helping me with my mental health following my bad experiences. They give me good advice and I feel listened to, and safe. The Anchor feels different to other services that I go to, I am always welcomed here”

“I like coming to The Anchor as I can start to talk about my past truths and feel safe here, I am beginning to trust.” (Scottish Government, 2019b: 1, 5, 6, 24, 27)

These extracts showcase a unanimous praise by victims for the services offered in Scotland, despite the existence of issues according to scholars and agencies, given in chapter 2. The above picture is that of a faultless system, where the best help is offered to survivors without problems, complaints or even mere suggestions for improvements. Praise is also a key theme in the *First Annual Report* of the Scottish Government (2018b: 1), which starts with three positive and thankful victims' quotes, where the main theme is that everyone had their voices heard: “Being listened to is important”, “I had someone who I can speak to for help and support”, “I feel better after speaking to you. I can breathe a sigh of relief now. I have been waiting for someone to listen to me so I could explain with an interpreter and today I could do that”. It is worth remembering that the NRM services are independent of the Mechanism, offered by organisations (e.g. TARA, Anchor Service, NHS) which exist and operate outside the NRM. They are simply contracted by governments to provide services in the auspices of the NRM. Still, the extracts read one-sided, presenting an almost ideal situation for the services available through the NRM. All these quotes promote an image of Scottish services giving survivors the ability to be heard, to be supported towards their comeback to society and fully empowered, while completely lacking any criticism.

Empowerment is defined as “enabling people to master their environments and achieve self-determination” (Peled et al., 2000: 10) or more broadly “feeling one’s personal influence in the world, taking an active stance towards problems, and fighting against one’s own oppression” (Lamb, 2001: 179). McDermott and Garofalo (2004: 1248) refer to empowerment as “giving choice back to victims whose choice has been taken away”. They identified how the professionalisation of advocacy for domestic abuse victims, with support given not by volunteers, but by professional services closely connected to the criminal justice system, made

the support rather standardised, offering victims limited freedom of choice and always within a set of predefined options, eventually disempowering victims by not letting them regain full control of their lives (McDermott and Garofalo, 2004). I am not examining whether a less professional advocacy setting would benefit victims more and I do not imply that the services in Scotland are not of good quality or are not helping victims because of their professional character. After all, as McDermott and Garofalo (2004: 1264) add, a less hands-on and less professional approach does not necessarily entail more empowerment for victims. Still, this professionalisation of services observed above with TARA, Anchor or Migrant Help, the over-reliance on them to support victims and the fact that survivors are almost exclusively praising the professional services received with no critique whatsoever, further reinforces this image of the “anti-trafficking rescue industry” (Sharapov, 2017: 94; Agustin, 2007) which comes to the rescue of the traumatised victim. Subsequently, the victim transcends from being a passive object of their trafficker, as several policies above claim when referring to the trafficking experience rejecting any agency or element of choice -even diminished- in victims, to a passive object of support organised exclusively by professional advocates. Despite the transition from the “horrific trafficking experience” to a state of “rescue”, the passivity of the victim is retained and further cultivated in policies as a common factor between these two periods. This is problematic, since any issues the NRM might have are not addressed, which potentially impedes self-critique and improvement, but also indirectly disempowers victims, demoting them to passively satisfied recipients of support without even the slightest recommendations for change.

Lastly, regarding victims’ origin, emphasis is placed on foreign victims. However, the prevalence of domestic victims according to NRM statistics is recognised in some occasions. Examining the main Strategies, in the *Modern Slavery Strategy* the word “domestic” never accompanies the word victims; thus, it does not denote origin. We do not have “domestic victims”. What we have is “domestic servitude”, “domestic work/workers” or “domestic visas” (Home Office, 2014b: 5, 21, 26, 48, 49, 54, 55). Therefore, the word “domestic” is reserved to show the type of exploitation (“domestic servitude”) or relates to immigration (“domestic visas”). Still, May’s foreword reveals that “the NCA estimates that in 2013, the UK was the third most common country of origin of identified victims” (Home Office, 2014b: 5), in pages 19-20 we have references on the UK being a top origin country, while there is also the story of Brian from Kidderminster trafficked in Newport. The Scottish *Trafficking and Exploitation Strategy* follows the same practice, saving the word “domestic” for servitude or abuse (Scottish Government,

2017b: 4, 9, 17, 26), while recognising the existence of “domestic trafficking and exploitation” but only for children born in Scotland (Scottish Government, 2017b: 26). It does refer to how wrong those absolute perceptions of victims coming exclusively from outside the UK are, stating that trafficking can concern British nationals too (Scottish Government, 2017b: 4). Still, the Scottish Strategy’s classification between “source countries” and “other countries”, serves to present origin countries as mainly third countries. The *Trafficking and Exploitation Strategy – Consultation – Case Studies* (Scottish Government, 2016b) provides stories predominantly through victims’ eyes, giving a range of victims with different experiences. The origin areas are characteristic of most victims in Britain: Eastern Europe, Asia, and Africa. Despite the fact that origin places are given in a generic way (areas rather than countries), we have no stories of UK victims. This goes despite the prefix phrase of the last story, which tries to bust the stereotype of the foreign victim stating that “trafficking happens within the UK and Scotland and is not confined to victims being brought into this country from elsewhere in the world”, yet gives no details on British victims (Scottish Government, 2016b: 8). The *Northern Irish Strategy 2019/2020* discusses the need to reintegrate victims “both in the UK and in countries of origin” (DoJ, 2019b: 20), denoting that the UK is different to origin countries, a phrase repeated in page 29. Nonetheless, the *Typology of Modern Slavery Offences* (Home Office, 2017c) makes repeated references to domestic victims.

The above confirm Sharapov’s (2017: 99-100) notion of the “victimised Other”, a person so traumatised that has to be a genuine victim and who, subsequently, does not deserve to be scrutinised by immigration officers due to their victimhood covering the potential illegality of how they migrated to Britain. However, Sharapov (2017), who examined early-2010s UK policies, tends to be more restrictive and rigid in his notion of the pure, blameless victim. Examining later documents, I identified references, mainly in the *Typology of Modern Slavery Offences*, which talk about varying levels of trafficking experiences, consent or prior knowledge. Additionally, Sharapov (2017) tends to be more rigid regarding his findings on victims being predominantly portrayed as foreign, as my findings thus far suggest that mainly Westminster and secondarily the Northern Irish and Scottish governments do pinpoint the existence of domestic victims. Yet, the latter two still tend to focus more on foreign survivors.

### 5.3 Image of the Trafficker

Turning to how policies portray traffickers, findings suggest a focus on organised, foreign criminals with references on low-level or opportunistic traffickers found again mainly in Westminster's *Typology of Modern Slavery Offences*. Generally, references to traffickers are fewer and more monolithic compared to victims, while there lacks an in-depth attempt to explore and understand traffickers' backgrounds and drivers leading them to criminality.

To begin, most N.Irish Strategies do not mention much about traffickers. The only reference to traffickers as active agents and not just as objects of investigations and prosecutions, is the *Northern Irish Strategy 2015/2016* saying that "to traffickers, victims are not seen in terms of their humanity, but only in terms of what profit they can bring as commodities" (DoJ, 2015b: 2). This reference sets the tone for how traffickers are presented: either ignored or seen in a purely negative way. Starting with the *Interim Review of the NRM*, traffickers are a constant threat to victims, even after the end of victimisation. They threaten victims and their families with "very real threats" (Home Office, 2014a: 6). According to the Home Office's *Frontline Staff Guidance*:

"To side-step national laws, traffickers [...] may become less physically aggressive or, when the trafficked person is a woman, they may become romantically 'involved' or provide small sums of money. [...]"

Reprisals against them or their children or families may prevent victims coming forward. In most trafficking situations, agents know, or will attempt to find, personal information about the victim, their home, family and friends. It is very common for agents and traffickers to use threats against the victim's family, especially children, in order to manipulate and control the victim. The fear of reprisal on themselves or their family will have a huge impact on whether a potential victim of trafficking is willing to cooperate." (Home Office, 2016a: 20)

Traffickers are presented as shrewd, cunning and manipulative and the lack of victims' cooperation is attributed to fear of traffickers. In the *Transparency in Supply Chains* document, traffickers are portrayed again negatively, as insatiable, aiming solely to increase profits who "may even go to great lengths to hide the fact that they are using slave labour" (Home Office, 2015: 32). The Guide uses examples of slave drivers "coaching and pressuring workers to lie to auditors about their conditions [...] and presenting fake records" (Home Office, 2015: 32). In *CA Guidance ver.6*, the Home Office (2019b: 28-29) mentions coercion, threats, blackmail and

grooming as examples of traffickers' means. Moreover, domestic servitude workers are "held" by "abusive employers" who "create physical and psychological obstacles [...] instilling fear in the domestic slave by threatening them, or their relatives, with further abuse or deportation, or by withholding their passport" (Home Office, 2019b: 33). These extracts illustrate that victims are treated as passive objects by traffickers, who manipulate them with various means and practices. The contrast between passive, innocent, blameless victims with no control over their fate and evil, manipulative, active traffickers who control victims is evident.

Traffickers are predominantly, but not exclusively, seen as organised criminals. Looking at the main Strategies, the *Modern Slavery Strategy* starts with May's foreword of tackling trafficking/slavery using the "successful framework we use to counter terrorism and fight organised crime", thus treating trafficking as organised crime, while throughout the document there are references to SOCA and international police cooperation to tackle "organised crime" (Home Office, 2014b: 5, 31, 42). Still, the document does sometimes admit the existence of "opportunistic individuals" or "opportunistic offenders" (Home Office, 2014b: 5, 25, 28), partly contradicting Sharapov's (2017: 95) observation that the "interpretation of trafficking as, first and foremost, a matter of organised and transnational crime is now firmly embedded in the UK anti-trafficking policy". The situation changes in the Scottish and Northern Irish landscape. The *2017 Scottish Strategy* disregards low-level/opportunistic traffickers, treating trafficking through the "Serious Organised Crime Strategy" with repeated references to this framework (Scottish Government, 2017b: 18, 23, 24, 33). The same references to "Organised Crime Task Force", which is also one of the issuing authors of the Strategy, are mentioned in the *2016-2017 NI Strategy*. These findings coincide with Sharapov's (2017) above observations.

According to a victim's quote in the Scottish Strategy, "this is organised criminal activity. Not just one person" (Scottish Government, 2017b: 19). This quote comes from a survivor; therefore it automatically bears more significance and weight, legitimising the view that trafficking is organised crime, traffickers are organised criminals and therefore evil, insatiable, ruthless otherised offenders deserving punitiveness and just deserts (Christie, 1986). However, when studying victim impact statements, Bandes (1996: 410) identified that these do not intend to illuminate the court with more information, but ultimately "dehumanise the defendant and employ the victim's story for a particular end: to cast the defendant from the human community". Bandes (1996: 410) supports that certain victim narratives causing empathy are not an absolute and unquestionable good in Law and must be assessed more broadly, in relation to the perpetrator's voice too, with Henderson (1985) and Sebba (1985) showing that putting victims at



the forefront actually helps consolidate more punitive attitudes towards offenders. This goes on despite studies showing how not only perpetrators, but also victims, often distort or omit case facts when giving their accounts to increase the seriousness of offenders' actions, downplay any positive characteristics their offender might have and achieve the best results for themselves (Stillwell and Baumeister, 1997). In our case the rhetoric is clear: the first phrase is very definitive, stating that human trafficking is an organised crime. The second phrase reinforces the first, casting away any doubt by saying that it never is just one trafficker. It is interesting to consider that one victim speaks in the name of all victims and does not limit himself/herself just to his/her case. How has he/she acquired this general knowledge and can make blanket statements about human trafficking as a whole? It is perfectly understood that this survivor can express opinions about their personal experience and the experience of other victims co-trafficked with them. But how do they have this general knowledge about trafficking? How is a victim entitled to generalise about all survivors' experiences? Especially when some Westminster policies talk about "organised criminals and opportunistic individuals" (Home Office, 2014b: 5), or admit that "there is limited existing evidence about the perpetrators of modern slavery" (Home Office, 2017b: 34). Weitzer (2014) agrees with the existence of limited research on the field, with Feingold (2005) pointing out the lack of a certain traffickers' image, emphasising how much fluidity there is on the matter. Viuhko (2018), focusing on the existence of many low-level, opportunistic traffickers, who were either family members, friends or people who simply grasped the opportunity to earn money, concluded that the reality surrounding traffickers' identity is a bit more "mundane" than thought, especially compared to media portrayals. In fact, not only many trafficking cases were committed by people close to the victim, but also by people who, as Surtees (2008) found, were unaware of what they were recruiting people for.

Another key observation is the lack of effort to understand traffickers, study the factors/motives leading them to criminality and go in depth regarding their lives and personalities. The limited references usually promote themes like prosecution, disruption of traffickers' activity, punishment or retribution accompanied by the image of an outcast, evil, alien other who is innately bad, motivated by immoral reasons and constantly wanting to commit further crimes to protect and expand their organised criminal activity (Christie, 1986). This almost makes them the evil alter ego of the innocent exploited victim, illustrated by the Scottish Government's (2017b: 5) phrase "when there is a victim, there are also perpetrators". This immediately creates a polarised distinction between the morality of the two and simultaneously an unbreakable link

between them, coinciding with Sharapov's (2017: 98) findings about how these two are so closely associated to one another in policies that they end up being merged into the single unit "traffickersandtheirvictims".

The *Typology of Modern Slavery Offences* (Home Office, 2017c) continues the abovementioned effort by Westminster policies to further broaden the lens regarding traffickers. The document supports the lack of a standard trafficker's/slave driver's profile, agreeing with literature on the existence of a spectrum of traffickers, who, as the document admits, have been found to be both EEA and non-EEA (Home Office, 2017c: 5). It also emphasises the "diversity in ways of offending and the different experiences of victims of modern slavery" (Home Office, 2017c: 47). Thus, contrary to Sharapov's (2017) findings, this policy showcases the spectrum existing for offenders and victims' experiences.

Exploring the document's case studies, there is a clear nationality connection between victims and perpetrators (Vietnamese male trafficker trafficked three Vietnamese nationals, Lithuanian woman trafficked Lithuanian nationals, three Romanian traffickers trafficked 22 Romanian victims, two Polish brothers trafficked 18 men from Poland, Tanzanian woman trafficked female Tanzanian etc.) (Home Office, 2017c: 16, 18, 24). This confirms Europol's (2016: 11) finding that the existence of foreign diaspora communities across the EU serves as a pull factor for trafficking practices. Furthermore, the document provides a larger range of victims' and offenders' profiles in terms of origin countries, admitting the existence of various nationalities and ethnicities for both. As seen before, the document talks about domestic victims and domestic perpetrators in numerous cases ranging from labour exploitation to domestic servitude, child and adult sexual exploitation (Home Office, 2017c: 13, 14, 15, 20, 23, 25, 33, 34, 37, 41). Thus, it contradicts Sharapov's (2017) notion of the evil, foreign "Other", who is subsequently dealt with anti-immigration measures. Still, the lack of any understanding or in-depth exploration of the push/pull factors driving traffickers' engagement with this crime is evident, whilst the document shows that low-level traffickers are predominantly found in domestic servitude, with sexual exploitation conducted by low-level traffickers only if it aims to traffickers' "personal gratification" and not to a wider clientele (Home Office, 2017c: 33-34).

What is also apparent from policies is that traffickers are usually different from victims and therefore it is infrequent for a person to have both identities. The use of the words "offender" and "victim" establishing the different identities of the two reinforces this. Only one story in a 66-page *Modern Slavery Typology guidance* talks about a female offender, who when

apprehended, declared her victim status, with the document using the word “claimed”, subtly denoting disbelief, while later it mentions the existence of just “anecdotal evidence” of some victims recruiting others (Home Office, 2017c: 16, 29). This largely contradicts the UNODC (2018), which found a high participation rate of female offenders in trafficking, showcasing the frequent fluidity between the labels “victim” and “trafficker”.

Moreover, the Typology makes a strong distinction between innocent victims and bad victimisers. There is emphasis on victims’ vulnerability (e.g. homelessness, drunkenness, poverty), but almost all descriptions of the various offence types start with similar phrases: “victim was forced” or “victim was exploited”. The labels victim/offender reinforce the dichotomy between them, whilst, despite the Typology’s attempt to provide a more well-rounded representation of trafficking, the frequent use of passive voice in most stories underpins the victim’s “passivity” (Van Dijk, 2009). The victim was always transported, taken, moved, exploited, forced, threatened or their papers were confiscated. The passive voice not only makes victims appear more passive and thus more genuine, but also attribute the active decision-making process/role to traffickers. Even, on the rare occasion where victims knew the nature of work, passivity remains the dominant narrative:

“A Czech man and his Romanian girlfriend trafficked two women aged 25 and 26 from the Czech Republic for sex work in a private residence in Cardiff. The victims were recruited online via a job advert for an escort service targeting eastern European women. The male offender arranged for them to fly to the UK and paid for their tickets. They were taken to various addresses in South East England for sex work, and then to a two-bedroom flat in Cardiff. The offender took photographs and created listings to advertise them online. The victims saw four clients a day, seven days a week. The victims were promised earnings of £130 an hour, but the offender said that they owed him money for ‘expenses’ and began making large deductions. The women were not content with the amount of money they were receiving. They were also concerned because the offender was editing their profiles to include the provision of services they did not want to offer.” (Home Office, 2017c: 30)

Evidently, whilst victims were concerned about money and actively responded to an escort service job advert, a more visible phrase denoting consent is missing. The victims “were recruited”. The use of passive voice is visible again. Victims did not actively *apply*, but were *recruited*. The active agent is the trafficker, who recruited the passive, objectified victims. The

job advert was “targeting” specific victims, meaning Eastern European girls. The word “targeting” is strong, almost denoting a certain level of organisation, intention, planning, sophistication and cunningness. Traffickers knew who to target; they did not move about based on luck or coincidence.

To summarise, the few details on traffickers put forward in policy documents, serve to increase this atmosphere of mystery around them, which further amplifies their purely negative identity and evil character. Traffickers are mostly demonised and neither they nor their backgrounds are examined in more depth by policies. They are mostly organised and foreign, but contrary to Sharapov (2017), references on domestic or opportunistic traffickers are evident too.

#### **5.4 Goals and Intentions of the UK and its Nations**

This final section explores what the UK policies revealed about the goals, intentions and plans of the Westminster, Scottish and Northern Irish governments. Findings suggest that the aforementioned limited effort to understand traffickers leads UK policies to promote a very punitive attitude towards them, embodied in the absolute goal of *total trafficking elimination*.

To begin, the *Modern Slavery Strategy* starts by establishing Britain’s long-standing tradition against slavery/trafficking stating that “more than 200 hundred years ago the British House of Commons passed historic legislation to make the slave trade illegal.” (Home Office, 2014b: 5). This quote of the then Home Secretary Theresa May reinforces the image of the UK as a leading anti-slavery force with a long tradition on slavery abolitionism, frames the trafficking problem in the broader slavery context (Broad and Turnbull, 2019) and fits in the general proclamation often made by politicians about their country’s long-standing history of supporting certain groups of people inspired by humanitarianism. Taylor (2017) identified these proud celebratory statements in the UK political discourse on refugees, with Every and Augoustinos (2008) observing similar trends in Australia. This reference to a country’s long-standing history of proudly supporting refugees, was found by Kirkwood (2019) to be a way not only to boast about the country’s past or shape its present, but more generally to construct a certain moral identity, which ignites and justifies certain policy choices and responses. As Kirkwood (2019) notes when studying the UK asylum system, such practices serve not only to support the

adoption of certain policies, but also to hide any different past policy choices or systemic shortcomings.

As seen earlier, slavery and trafficking practices have gone on for centuries and are closely connected to the history of mankind from ancient times till today. This is corroborated by how the UK Government openly admitted above that Britain has been combating slavery for more than two centuries and yet slavery is still a reality in the UK. Despite these observations suggesting how complex and challenging tackling slavery/trafficking is, the UK Government chooses an absolute stance promoting complete eradication of slavery/trafficking, with several strong and absolute expressions supporting a punitive and unforgiving attitude against traffickers. May states that “we must put a stop to these crimes, and stamp out modern slavery” and this is why “the law must be rigorously enforced” (Home Office, 2014b: 5), adding that:

“Working with a wide-range of partners, we must step up the fight against modern slavery in this country, and internationally, to put an end to the misery suffered by innocent people around the world. Together, we must send a powerful message to all traffickers and slave drivers that they will not get away with their crimes. And we must do all we can to protect, support and help victims, and ensure that they can be returned to freedom.” (Home Office, 2014b: 6)

This extract puts all the basic elements examined in this chapter on the table. Westminster aims to end slavery, hunt down traffickers, bring them to justice, simultaneously protecting victims, who are mostly “innocent people” suffering a “misery”. The binary distinction between victims and perpetrators is more prevalent than ever. There is a spirit of faith, optimism and toughness against traffickers. The *2017 UK Annual Report* confirms that “eradicating modern slavery is top foreign policy priority for the UK Government” (Home Office, 2017b: 44), while Home Secretary Javid’s 2018 foreword emphasises again the UK’s leading anti-slavery role and long-standing tradition saying that “the UK continues to be a world leader in the fight to end this appalling crime” (Home Office, 2018a: 2). The general atmosphere is one where Britain tries to establish both its role as a safeguarding anti-slavery/anti-trafficking power, broadly related to retaining the country’s power in the international arena, as well as the goal of *total trafficking elimination*.

In Scotland, the goals are similar. As the Scottish Government (2017b: 5) says “our vision is [...] to work to eliminate human trafficking and exploitation”. This expression is reproduced in two more pages (Scottish Government, 2017b: 6, 10). Michael Matheson, the then Cabinet Secretary of Justice, clearly distinguishes that the intention is to support and protect victims on

one hand and stop traffickers on the other. This creates a dichotomy between victims and traffickers and how each will be treated respectively. The strong language and punitive attitude towards traffickers, along with the sympathetic tone in which victims are viewed become evident as these goals unfold. The Government's (2017b: 5, 6, 10) "vision" is not just to reduce trafficking, help victims, tackle the push/pull factors or understand the broader mechanics behind this criminal activity, but to "eliminate human trafficking" and exploitation. In the subsequent 2018 and 2019 Progress Reports, the same key words, namely "elimination" and "vision", are used too. According to the former, "the Trafficking and Exploitation Strategy, sets out a clear vision: to work with partners to eliminate human trafficking and exploitation (Scottish Government, 2018b: 4), while in his 2019 foreword, Humza Yousaf, Cabinet Secretary of Justice, stated that "Scotland's first Trafficking and Exploitation Strategy [sets] out a number of actions and outcomes to help achieve our ambitious vision – to eliminate human trafficking and exploitation" (Scottish Government, 2019b: 3).

The Northern Irish DoJ is on the same page, using the word "eradicate" to summarise their intentions regarding trafficking/slavery. The overall aim of the *2015/2016 Strategy* is "to equip Northern Ireland to eradicate human trafficking, slavery and forced labour and to protect and support victims" (DoJ, 2015b: 15), with almost the same phrase used in the *2016/2017 Strategy*, where the then Minister of Justice, Claire Sugden, stated in bold that "the strategy's aim is to **equip Northern Ireland to eradicate human trafficking and modern slavery and identifying, protecting and supporting victims.**" (DoJ, 2016b: 2). In the *2019/2020 Strategy*, the word "eradicate" is not used frequently in the introductory statements, but mostly later, when the progress achieved is presented, along with how the Northern Irish Act and the inter-agency collaboration have helped Northern Ireland in this "fight to eradicate modern slavery and human trafficking" (DoJ, 2019b: 7). The cliché phrase "equipping Northern Ireland to eradicate modern slavery" is also the heading of an action plan table, where the main action areas, namely Pursue, Prevent, Protect, Partnership are presented (DoJ, 2019b: 12).

Consequently, a punitive atmosphere is the remedy promoted against "offenders". In Home Office's (2014a: 6) words, "more needs to be done to pursue those individuals and organised groups profiting from this crime". What is reserved for traffickers is more or less a 'law-and-order' approach. Punishment without remorse or repent. This coincides with Sharapov's (2017) findings on the punitive rhetoric of official UK policy discourse. This *tough-on-traffickers approach* is evident in the UK's *Modern Slavery Strategy*.

“The introduction of the Modern Slavery Bill and the wider comprehensive programme of activity set out in this Strategy are themselves a strong deterrent and we will continue to widely publicise the details of our actions. This activity sends a clear message, internationally, that the UK will not tolerate any form of abuse or exploitation of others [...] We will also encourage law enforcement and other operational partners to ensure that operational successes and the penalties handed down to perpetrators are widely publicised. Importantly, when we work on joint operations, we will encourage law enforcement partners overseas to publicise the sentences and penalties imposed within their countries, as well as publicising these details widely in the UK.” (Home Office, 2014b: 46).

This extract shows that the UK not only intends to increase its anti-trafficking efforts, but also to advertise its punitive intentions and future investigative successes sending a “clear message” that Britain “will not tolerate any form of abuse or exploitation of others”. Therefore, traffickers, following the negative way in which they are portrayed and the lack of efforts to understand them and their background, become the object of punitiveness and deterrence-oriented, domestic and international policing efforts, *embedded in the broader UK abolitionist legacy*, aiming to consolidate and upgrade the UK’s international status as a *leading anti-slavery force*.

The DoJ (2019b: 15-16) emphasises the use of JITs, “Europol information exchange” and “development of bi-lateral links”, while “Identify perpetrators and disrupt their activity” is a title showcasing the intentions of the Scottish Government (2017b: 6). The phrase “Police Scotland, prosecutors and the courts will, where appropriate, make full use of the orders and powers available to them to disrupt activity and seize assets wherever trafficking or exploitation occurs” evidences this tough-on-traffickers approach (Scottish Government, 2017b: 19). Regarding planned actions, the long and mid-term goals of Scotland are focused on international and European collaboration among police bodies, “intelligence to be shared between local partners in Scotland and with other countries”, “cross-border co-operation between criminal justice agencies within the EU and beyond” and “successful actions to be publicised, to send the message that Scotland is a country [...] hostile to human trafficking and exploitation” (Scottish Government, 2017b: 17-20). This denotes that traffickers mainly come from outside, as an external threat for Britain that can be stopped by international policing partnerships (Sharapov, 2017) and not by deeper structural solutions addressing Europol’s (2016) deep-rooted systemic causes/factors, such as poverty, unemployment, or social tolerance of exploitation.

The *Scottish Trafficking and Exploitation Strategy – Consultation – Case Studies* document's last story is "set out in a different format [focusing] on perpetrators, rather than victims" (Scottish Government, 2016b: 8). Even though someone would assume that what follows is a trafficking story from the perpetrator's side, in fact we read a bland description of a successful domestic police (co-)operation ran by Scottish, Northern Irish and Welsh police forces and the steps taken from investigation to how "evidence identified a number of premises [...] used as brothels" and the "main subjects of the operation", to enquiries and the subsequent arrest of two perpetrators in line with the above strategic goal of publicising criminal justice successes (Scottish Government, 2016b: 8). There is a brief description of how the traffickers' network was operating, which however reads as a dry synopsis of a bureaucratic police report using standardised, short phrases ("the accused were involved to varying degrees in [...] a 'call-girl' business", "customers called a central number advertised", "the evidence against the accused was primarily direct eye witness evidence [...] supplemented by documentary and surveillance evidence"), with passive voice used to reinforce victims' passivity ("prostitutes were frequently moved, or asked to move") (Scottish Government, 2016b: 8). The final sentence ("Both pled guilty and received a prison sentence") almost attempts to make traffickers fade into the darkness of prison, completing the evident lack of willingness by authorities to hear their side and understand their deeper motives. Evidently, this story's purpose is not to give the traffickers' viewpoint, but to advertise a successful domestic police (co-)operation.

Ultimately, the UK policies examined choose to focus more on tackling the facilitating factor of lack of unified legislation and collaborative police practice (domestic and transnational) rather than address the other Europol (2016) factors too. Consequently, only international and domestic policing methods are promoted, with focus on traffickers' individual criminal choices leading them to criminal careers and not on the structural reasons, which -to an extent- also served to shape their pathways.

## **5.5 Summary**

In this chapter, I presented the critical document analysis' findings based on 18 policies issued by Westminster and the devolved governments on trafficking/slavery. Findings suggest a strong tendency of these policies to frame the issue of trafficking/slavery in a very specific way,



reinforcing certain stereotypes. Human trafficking is presented as a horrible, traumatic and completely negative experience, where victims in most cases did not know or suspect their victimisation. However, there tends to be a small, slow and growing tendency, mainly by Westminster policies, to broaden the scope and illustrate that victims can vary in terms of nationality, consent, prior knowledge and trafficking experiences, while that does not take away their identities as genuinely traumatised individuals deserving our support. Simultaneously, there also tends to be an even slower but again growingly significant effort to recognise the range of traffickers' organisation levels and origin and much less the fluidity between victims-traffickers, again predominantly by Westminster.

Still, the scarcity of background details on traffickers or the absence of exploring the factors driving their lives and engagement with criminality shows the lack of efforts to understand the broader structural reasons, which might have shaped their life choices. Strong emphasis is placed on individual criminal choices and inherently evil personalities, instead of mixing this with an examination of structural causes and motives behind their actions too. What comes as a natural result of the above representations is the goal to help visibly traumatised, genuine victims -and not imposters- simultaneously punishing traffickers. Yet, this punitive approach is not the only aspect identified. A rather ambitious agenda is promoted in perfect harmony from all British governments, according to which the end goal is not just to reduce trafficking, but to completely eliminate it. These absolute policy statements further drive the UK's punitive criminal justice attitude against traffickers.

What follows is the examination of the images of the victim and trafficker, along with the UK goals/intentions, through the viewpoint of the practitioners interviewed, in order to cross examine the reality painted by policies to the one painted by interviews and draw clearer conclusions on what images are promoted both in paper and in practice.

## Chapter 6

### Interview Findings on the NRM Foundations

#### 6.1 Introduction

The policy-based analysis in chapter 5 revealed an attempt to idealise victims, presenting their trafficking involvement mainly as a result of them being deceived, threatened or forced and less frequently as a result of them choosing to be trafficked, usually based on a diminished capacity shaped by structural factors, such as poverty or unemployment. Still, I identified a tendency, particularly in Westminster policies, to start recognising the varying levels of victims' consent/prior knowledge, how survivors can also be domestic, as well as the varying trafficking experiences. Policy emphasis, especially in Scotland and Northern Ireland, was placed on foreign victims, with a fair but smaller share of references on domestic ones too. Traffickers were demonised, presented predominantly as organised, foreign, transnational criminals driven by monetary gain, with some policies, mainly from Westminster, recognising the existence of low-level or domestic traffickers. These findings partly contradict literature, which highlighted more clearly the existence of a range of trafficking experiences, a range of victims -based on knowledge/consent/choice- and traffickers, whilst emphasising the fluidity between victims and perpetrators (Weitzer, 2014; Feingold, 2005; Molland, 2012; Jacobsen and Skilbrei, 2010; Surtees, 2008; Vocks and Nijboer, 2000; Hussein, 2015). Still, a growing effort to widen the scope of the official UK trafficking understanding is noticed in the policies examined, especially when compared to Sharapov's (2017) research on early-2010s policies. Additionally, the suggested way of dealing with victims is sympathy, professional advocacy and support, whilst there is no will to study traffickers in depth, understanding the factors framing their choices, which leads to punitiveness, a tough-on-traffickers approach and the goal of total trafficking elimination.

This chapter will give the findings of the interviews with 22 professionals and the qualitative questionnaire with the Scottish Government official on the *NRM foundations*: the image of the victim and their trafficking experience, the image of the trafficker and finally the UK governments' anti-trafficking goals/intentions. This chapter will draw comparisons with the

previous chapter, so that the findings on the NRM foundations can be refined and enriched with the help of the interviews.

Most interviewees focused on foreign victims. Several polarisations were noted between NGO and law enforcement interviewees. The former tended to be a bit more sympathetic to victims, focusing more on victims' trauma, deception and manipulation by traffickers, even when recognising the grey areas of victimisation and the varying levels of consent, with some even denying the existence of victims who had prior knowledge/consent. Law enforcement interviewees tended to recognise more clearly the existence of a spectrum for victims based on prior consent and/or knowledge and trafficking experiences. The roles reversed regarding traffickers, with law enforcement interviewees labelling them as organised and NGO interviewees emphasising the existence of a spectrum (organised-opportunistic) and the fluidity between victims-perpetrators. Finally, when interviewees commented on the official goals, they talked about an overpromising, sweeping UK agenda, over-advertising the benefits of the UK's anti-trafficking efforts.

## **6.2 Image of the Victim and the Trafficking/Slavery Experience**

Findings suggest a greater emphasis on victims' varying levels of consent, prior knowledge/suspicion and trafficking experiences compared to the policies examined, despite policy efforts to start including more grey areas.

To begin, when asked about survivors' origin countries, few interviewees focused on domestic victims, instead concentrating on survivors from Southeast Asia, China, Africa or Eastern Europe (e.g. Romania). These general details about victims' origins largely correspond to the NCA statistics of chapter 1, but still neglect domestic victims, who occupy the first position in origin countries since 2017, even though no domestic victims were referred in Scotland in 2018, with Northern Ireland referring only one in 2017 (NCA 2014, 2015, 2016, 2017, 2018, 2019, 2020a). An interesting finding according to HTUPS officer 3 is that most individuals referred to the NRM were either asylum seekers first, subsequently discovered by authorities to also fulfil some trafficking indicators or had been arrested for immigration offences only to be found they were potential trafficking victims later ("So, a lot of our referrals [...] come from the Home Office and it's been the result of either [...] the asylum process or they've been arrested for immigration

offences and things like that”). This is reminiscent of Haynes’ (2004) case of Madeleine, the sex trafficking survivor in Bosnia, who was imprisoned for prostitution only to be saved by the OSCE’s intervention, showcasing the practice of falsely criminalising trafficking victims. This treatment of victims either as prostitutes or illegal immigrants was noticed in Britain too by Malloch (2016), who attributed that to first responders’ inadequate training. This finding is alarming given that statutory defence exists explicitly in the Westminster and Northern Irish Acts, but not in the Scottish Act, evidencing a gap in victims’ protection in Scotland.

Interviews with Scottish support providing NGO workers revealed that poverty is a key push factor for victims, fostering vulnerability, as was also supported by Europol (2016). Worker 3 mentioned they never “had anyone who knew what was in store for her”, meaning that victims are usually forced or deceived. However, interviews with the HTUPS illustrated a broader spectrum regarding victims’ prior knowledge and their trafficking experience:

*...I mean anyone could be a potential victim of trafficking, so usually we find that the majority of cases that come in to us, they’re not from the UK and they’ve possibly come in to the country for whatever reasons, whether they’ve come in to the country thinking ‘we’re gonna get a better way of life’ or that they’ve been promised something better in this country and maybe things didn’t work out for them or they found themselves in vulnerable positions, errrrr, circumstances, that they’ve become victims of trafficking, either that may be sexual exploitation, labour exploitation or domestic servitude.*

*(Interview with HTUPS officer 1)*

*I think, errrr...[pause] there is all these push factors for them to get to the destination. And whether is the family or [inaudible] to pay for the-their movement to their destination, thinking they’re gonna get there whence they pay their fare, they’re gonna get there and they’re gonna have this...[pause] land of milk and honey. But, when that journey ends, that’s when the exploitation kicks in.*

*(Interview with HTUPS officer 4)*

These extracts align with Molland (2012: 100), who identified a “very fine line between deception, socialisation and normalisation”, pinpointing “normalisation” as an accompanying element to deception, denoting exploitative work that had not been initially agreed, but was

eventually accepted and normalised by the victim. The Scottish NGO Manager and English officer 2 summarised the above, but still the contrast in focus between two interviewees from different backgrounds is evident. The former focused more on trauma and manipulation of victims by traffickers, whilst the latter tended to be more vocal on the victim's prior agreement to be exploited:

*I think there are grey areas. [...] Some people have chosen, made choices and decisions that, errrrr, they didn't completely realise what they were getting into, but it's turned bad. There are the ones who realise that they may have been, they don't call it 'trafficked', but they realise that what's happening to them is not right. I think that there's a big percentage of people, probably, who have been so badly, psychologically damaged that they don't realise they've been trafficked [...] I've met quite a few survivors, who, at the time, had no idea they had been trafficked and you think: Really, how is that possible after what you have gone through to not have realised that? I think that when the power thing comes in, it's so psychologically overwhelming that people do begin to believe that what they've been involved in is normal.*

*(Interview with Scottish NGO Manager)*

*So, we encounter sex workers who know that, who come in the UK knowing that they're gonna be sex workers. And they agreed to that, they've come willingly and perhaps when they get to the UK, you know, they might have agreed to-to service 5 clients a day, but then they are expected to service 10 clients a day, you know, they were promised that they would work in a room, but then they were forced out in the street, you know. So, some-some people, well a lot of people...You never know you are a victim, until you are a victim certainly so, obviously that's part of the modern slavery, isn't it? You come over into the UK thinking you're gonna have a great job and a great house and everything is going to be great and you're gonna be paid a wage. It's only when you get into that situation that you...*

*(Interview with English officer 2)*

These align with Weitzer (2014: 15), who, when studying labour exploitation, identified that between purely deceived/forced victims and fully consenting ones, there exists a large spectrum of grey areas, where victims either did not fully understand the nature of exploitation and/or the

risks associated with it, or had agreed to a certain exploitative work only to find this eventually worsened (e.g. the above examples regarding sex workers having to “service” more clients or work outdoors instead of brothels). However, this non-agreed exploitative work was eventually accepted and *normalised* by the survivor (Molland, 2012), often based on means such as psychological coercion, as the above interviewee stated or because of its financial benefits, as Weitzer (2014: 15) adds. Still UK policies often disregard these grey areas:

*KG: Policies usually portray very moving stories of victims and-and they portray them in a very innocent way [Yep], whereas they don't have a lot of details on traffickers. Do you think that this is accurate enough? Or do you think that this is something missing in policies?*

*HTUPS officer 2: Yeah! I would say it's missing. I think it's, errrrr, how would you say...*

*KG: Cause some victims kinda knew what was going on, at least to a certain extent.*

*HTUPS officer 2: Well, yeah, exactly, we've discussed that!*

*KG: Is it something that you've seen in practice?*

*HTUPS officer 2: Victims knowing?*

*KG: To a certain extent.*

*HTUPS officer 2: To a certain extent. I mean take prostitution, for example. I mean girls, errrrr, I am of the opinion, some, not all, so again individual basis, know what they're coming in the UK for...[pause] It's to earn money. And they're advised that they can earn a lot of money through prostitution, they-they are probably still the victims of exploitation, because they'll have to pay over the odds [inaudible] for their accommodation, their exploiters for their protection, if you like, and whatever issue there may be and it would be debts and the rest of it. But they may be making a bit of decent cash. So, they come knowing what they're gonna do, but at the end of the day they're still the victims of exploitation.*

*(Interview with HTUPS officer 2)*

This last opinion viewed UK policies more critically, which, as seen in chapter 5, tend to be less vocal on the varying levels of consent or prior knowledge and somewhat more monolithic in their representations of the average victim, promoting a picture of a deceived person who knew

almost nothing regarding their trafficker's real exploitative intentions. Yet, there was a growing tendency to recognise the grey areas of trafficking and victimisation, so the above quotes coincide with that effort, mainly identified in the Westminster policy paradigm, spearheaded by the Home Office's (2017c) Typology of MS offences. In summary, these last extracts emphasised that the level of victim's consent, prior knowledge or suspicion can vary and, as literature suggests, there is indeed a range of different victims and trafficking experiences. So, yes, we can have perfect victims who did not know, suspect or consent to anything, but we also have cases where knowledge, suspicion or consent can be partially or fully there before victimisation (Weitzer, 2014). We can have victims who normalised their exploitation as they went (Molland, 2012) or those who agreed to be exploited (Hussein, 2015) doing so for reasons pertaining to financial independence, thus being more active agents than thought (Chin, 2013; Jacobsen and Skillbrei, 2010).

Still, UK NGO worker 1 stated that "every single person [they] worked with demonstrated emotional trauma" whether that might be "anxiety, depression" or "PTSD", adding that even those without an officially diagnosed condition, still faced symptoms like "night terrors, insomnia, flashbacks, severe fear, extreme low self esteem [...] lack of self confidence", while those diagnosed with emotional trauma were receiving medication. Elaborating more on individuals' level of trauma, worker 1 from a support providing Scottish NGO recounted a story of a new referral, where the first interview with the survivor lasted longer than expected due to the woman's distressed state. Worker 4 from another support providing Scottish NGO confirmed that usually new cases require more attention and support, but that is always judged on a case-by-case basis. As he/she added, the number of appointments or amount of support needed "depends on the individual", while they recounted a case of a survivor who behaved "a bit like a 13-14-year old, in that he really wants to do everything himself but he wants to ring me and just share if he's done it right. And that's absolutely fine, if that's what he needs and that's what we will provide". The UK NGO Legal Director pinpointed the cultural and health barriers victims face (e.g. language, medical and psychological problems), how victims are heavily traumatised and how they can easily "cliff-drop" through systems especially when experiencing lack of support, which often leads them back to their old lives and places of exploitation. He/she adds that "people [who] have the more complex needs [...] are [...] most likely to fall through the gaps in systems, because they are the most vulnerable. They are also the people most likely to be re-trafficked". Therefore, they need someone to constantly advocate on their behalf.

Again, these views of NGO interviewees, tended to overlook any prior consent or knowledge of the victim, focusing more on victims' vulnerabilities driving their pathways and trauma as the result of their exploitation. Even if some victims were more active agents, this does not mean that these less pure or less ideal cases are not genuine, since the law does not require lack of consent as a necessary prerequisite for someone to be a trafficking victim, recognising that even full consent can be non-free, tainted by the victim's vulnerabilities. Despite prior knowledge/consent, many are still traumatised requiring specialised support. The key concept in human trafficking is vulnerability, cultivated, as seen in literature and the above quotes, by push and pull factors combined with certain facilitators (Europol, 2016).

Findings also indicate that the criminal justice process may contribute to trauma, with English officer 2 attributing a share of responsibility to the UK criminal justice system stating that victims "certainly don't want to share it with a court room, you know, the British judicial system isn't particularly victim-friendly". HTUPS officer 2 mentioned that in many cases the Police could only get minimum information from victims and that "there is only a limit to what you can do" due to victims being heavily traumatised. When asked if UK policies accurately reflect the realities of human trafficking regarding victims, Manager 1 from a Scottish support providing NGO said they are not. Not all victims share the same responses, with some crying or appearing more broken than others, who might internalise their pain instead; but Manager 1 wondered "does that mean that he/she is any less victim of trafficking from somebody who are bleeding their heart? You know, reactions are different". This aligns with Agaibi and Wilson's (2005: 196) observations presented in chapter 3 on how coping with trauma and the ability to show resilience largely depend on "personality traits linked to extraversion, high self-esteem, assertiveness, hardiness, internal locus of control, and cognitive feedback". Still, resilience is not only biology or a matter of the individual's mentality or personality (Luthar and Brown, 2007), but also relates to the person's environment and its "capacity to facilitate growth" (Ungar, 2013: 262).

Regarding consent, prior knowledge, suspicion and trauma, the above extracts also revealed that for some survivors the trafficking experience might not seem traumatic, abusive or exploitative, while some might not even consider themselves as victims. As English officer 2 stated "a lot of the people we deal with will endure quite bad conditions and poor pay just because it's better than where they came from". This coincides with Hussein (2015: 133) who, as seen in chapter 3, identified that victims often choose to continue being exploited compared to returning home to the much worse situation from which they wanted to escape initially (push and pull factors of poverty in the origin country and better prospects in the destination country).



This is something encountered many times in practice by English officer 2. This constitutes the notion of the *stepping stone*, where the trafficking experience is seen as an improvement to what survivors were experiencing before and a step towards a better future. English Officer 2 added how “in some countries it’s almost accepted that you don’t treat your domestic worker very well [...] it’s the norm”. As the Scottish NGO Manager pinpointed, this creates a difficult “ethical issue” for Britain, “because people have come from somewhere else where the situation might have been worse and yet they are in here and, in terms of our human rights and Employment Law, all of that is illegal”. This underlines how ethically challenging it is for the UK to deal with an illegal situation, when victims themselves do not view it as illegal, negative or harming.

Still, when examining NGO interviewees’ views, the emphasis shifted again to how any prior consent or knowledge does not strip the person off the victim’s identity and does not sanctify or legalise the criminal act of trafficking, unless that consent is full and free, unaffected by vulnerabilities. It is the vulnerability which led them choose this life by firstly diminishing their freedom of choice:

*Manager 1: I worked with a woman a few years ago, who had been trafficked from her country. She came here thinking that she would have been looking after somebody’s baby. She was trafficked.*

*KG: So she was completely deceived.*

*Manager 1: Yeah, initially. And the most horrendous experience that she could ever imagine happened to her. Errrrr, she was put in a brothel and...dreadful experience. And then a man came into the picture and he paid the traffickers for her. So, she thought ‘He saved me. He paid these money and he got me out of that’. ‘You can just work for me’. Ok, so she was grateful that she was taken away from this horrible situation. This one man, he loves her. ‘We will set up a home together’. ‘You’ll go to the brothel, I will set it up for you’. She went to, what was then, the saunas and 6 days a week she was happy to be making these money to give to him, because ‘he saved me, he was the saviour [...] Oh we are gonna get a good house, a good car, we are gonna have a wonderful life together’, ‘you just keep doing that, give me the money and stuff’. But she was happy with that, because she believed ‘We are gonna have a wonderful life together’.*

*KG: And because it was probably better than the horrendous experience she had before. It was an improvement.*

*Manager 1: Yes, it was less. Aha, in her mind it was...*

*(Interview with support providing Scottish NGO Manager 1)*

*On the whole, I would say it is probably true that victims of trafficking are vulnerable people. People don't-don't become trafficked, who have not been vulnerable for some reason. So, it is someone who has been powerful, who is preying on someone who is weak. In definition, that's what it is. Whether the person agrees with that, whether the victim agrees that they are a victim or otherwise, I'm not sure what difference that makes.*

*(Interview with non-support providing Scottish NGO Manager)*

These findings provide a somewhat different picture compared to UK policies, which tend to be less vocal on the victims' varying experiences and levels of consent or prior knowledge. This makes them more rigid in their representations of the average victim, as there is more emphasis on the trauma survivors undoubtedly bear and less on the various categories of victims ranging from fully deceived/forced to fully consenting or from victims who suffered greatly to those who did not suffer as much, endured the pains hoping for something better or even viewed them as a betterment to their previous lives. Thus, UK policies focus more on expressions of trauma as a result of exploitation and traffickers' actions and less on vulnerability, viewing the issue in a 'black-or-white' lens: victims are innocent, traumatised and therefore genuine; traffickers are evil and responsible for this trauma. Consequently, they fail to see the complex reality and address vulnerability, along with its underlying causes and the grey areas it creates. In UK policies, there is extremely limited discussion on poverty or unemployment in origin countries (push factors) combined with the abundance of prospects in destination countries (pull factors). Contrastingly, focus is mostly on addressing facilitators, since policies are centred on criminalisation, sanctions, enforcing tougher legislation and increasing prosecutions and convictions by raising public awareness. These are, of course, important measures and should be part of the solution. But this solution should go beyond that, as will be further illustrated later. As things stand now, the UK's approach reads rather one-sided. This finding is not made in a vacuum, but is connected to findings in the coming chapters, according to which the NRM and its authorities

have trouble dealing with grey areas, feeling more comfortable when facing clear-cut trafficking incidents. This difference in representations does not only concern victims, but traffickers too, as will now become evident.

### **6.3 Image of the Trafficker**

Turning to traffickers, findings tend to be polarised, with some interviewees labelling them as organised criminals, but others emphasising the existence of a range between organised and opportunistic ones and the frequent fluidity between victims and traffickers.

Traffickers are “very clever”, worker 3 from a Scottish support providing NGO said, often using deception to recruit victims. He/she mentioned a case about “two girls [that] have been apprehended within immigration and kept overnight and in the morning the traffickers picked them up” to illustrate their wits and cunningness. Scottish Politician 2 agreed that they are “clever and manipulating people”, organised criminals “in very large scale” and involved with other organised crime activities, including drugs. The Scottish NGO Manager also underlined the existence of criminal networks pinpointing that low-level traffickers are often connected to them, proving that trafficking is “certainly” a form of organised crime. He/she stated that these networks are still not fully understood by police and our criminal justice system, which still “are behind”. SOCA agent stated that trafficking is a form of serious organised crime, with “night time economy” (e.g. bars/clubs), hotels and places of transitory workforce like “nail bars”, “hairdressing salons”, “barber shops”, “retail parks”, “multi-store car parks” being at risk of labour trafficking. “Outsourcing” and creating “supply chains” by choosing the “cheapest option” fosters trafficking practices he/she added. GLAA representative focused on victims’ routes to the UK, saying that “this kind of journey is not easy to make unless there’s some kind of organisation behind you”. He/She mentioned the seasonal workers in agriculture and fisheries, stating that these “companies and sectors I feel are probably in the biggest risk of employing people who’ve been trafficked either knowingly or unwittingly”.

All interviewees from HTUPS wholeheartedly agreed that trafficking is a form of organised crime. HTUPS officer 3 claimed that many “think a serious crime is murder, drugs, guns, when [...] maybe they don’t realise human trafficking actually covers every single element of that [...]

Human trafficking can involve murder, can involve guns, can involve drugs". HTUPS Officer 2 confirmed it is "100%" organised crime.

As established in chapter 5, document findings partly disagreed with Sharapov's (2017) observations that policies almost exclusively focus on organised criminals, recognising to a lesser extent the existence of low-level/opportunistic traffickers. Yet, the interviews examined above support Sharapov's (2017) findings more strongly than policies, as the aforementioned interviewees presented traffickers as organised. The strongest support for the notion of the *organised trafficker* came from law enforcement interviewees. However, when pressed more regarding policies and the lack of background details on traffickers, HTUPS officer 2 admitted something interesting:

*KG: What about traffickers? There's no details on traffickers.*

*HTUPS officer 2: But I think that goes hand in hand with the-the limited number of convictions. The limited number of prosecutions. Because we don't know the traffickers. So, to paint an accurate picture of the traffickers, we-we have to have more prosecutions, we have to learn from the trafficker. To know them!*

*(Interview with HTUPS officer 2)*

The interviewee admitted that due to the low number of UK prosecutions and convictions, we still do not know who traffickers are. This statement contradicts the ones before about trafficking being mainly or exclusively organised crime. In other words, how can we know that traffickers are organised criminals, if we admit that, due to the few prosecutions and convictions and therefore the limited interaction we have had with them, we do not really know who they are and what their identity really is? This lack of accurate and substantial information on traffickers was pinpointed by Manager 1 from a Scottish support providing NGO, who emphasised how the perpetrator is missing from policy discourse, underlining that traffickers can be of both genders, as the UNODC (2018) also supported:

*KG: So, I was reading the Scottish Government Trafficking and Exploitation Strategy and the Review on that. What comes out very strongly is that there's no understanding for the perpetrator.*

*Manager 1: No, he's missing! Where is he? Or she! Where are they?*

*(Interview with Scottish support providing NGO Manager 1)*

English officer 2 admitted that trafficking is mostly an organised crime, but predominantly domestic servitude cases fall out of this category. UK NGO worker 1, though, claimed that there are many different perpetrators in trafficking in general: “they can be parts of organised crime groups [...] there’s cases of just individual couples and individual families [...] It can be on any scale”. This contradicts the above views supporting how all or almost all traffickers are organised criminals, contrastingly showing the existence of a range of traffickers, with some being organised and others more low-level/opportunistic. The same interviewee shared more details from their personal portfolio:

*I’ve dealt with cases where victims had been exploited by a serious organised crime group and international organised crime group and I’ve also dealt with cases of individuals who had trafficked people or small family units who had trafficked people, so, errrrr, yeah the perpetrators, they can vary. [...] And I think also, it is important to highlight that people can be trafficked by members of their own family and often are [...] if that’s not there [in the UK policies], then I think that would be concerning, because it-it may well lead people to believe that they can’t be trafficked, because they’re living with their family members, for example, but actually they can be very easily trafficked by their family members. You can be trafficked out for services from your family home.*

*(Interview with UK NGO worker 1)*

This interviewee felt that if UK policies are promoting the image of the organised criminal and not the full range of traffickers (something seen happening to an extent in chapter 5), then that is concerning. It may distort the real image of traffickers, limiting the range of who can be considered a perpetrator. It perpetuates the myth of traffickers as predominantly organised criminals, impeding the efforts to reveal more cases, as the whole approach is more centred on career criminals who should simply get their “just deserts” and not offenders whose individual choices might be also shaped by factors such as poverty, easy money, opportunity, social tolerance, deprivation or unemployment. This can transform trafficking into a “standalone phenomenon of organised criminality” (Sharapov, 2017: 94), disconnected from other phenomena heavily related to it, including undocumented migration or labour law violations. Therefore, even if awareness is raised among first responders and the public, this is done on unrealistic and partly inaccurate images of traffickers or victims, which can lead us missing on many genuine cases. It may also impede the process of victims’ self-identification, maintaining

the idea that trafficking can only be conducted by organised criminals and not low-level/opportunistic traffickers, despite research on female sex trafficking victims revealing that many were recruited not by organised criminals, but by friends or families and consequently were neither coerced, deceived nor forced to exploitation by career criminals (Molland, 2012; Jacobsen and Skilbrei, 2010; Surtees, 2008; Vocks and Nijboer, 2000). Simultaneously, Meeteren and Hiah (2019) found that many labour trafficking victims had problems self-identifying, due to them viewing their case as just an exploitative job helping them eventually rise higher in the professional and social ladder. In their eyes, it constituted an improvement to their past lives in origin countries and they viewed themselves as active agents of their fortunes rather than exploited victims, attributing this self-attached label to how they had chosen to follow the trafficker without being forced, coerced or threatened to do so (Meeteren and Hiah, 2019). The lack of awareness around how trafficking can occur even if someone has chosen to be victimised, is a key obstacle hindering (self-)identification, along with the narrow descriptions/notions of organised traffickers who abuse, threaten, deceive, force or coerce.

Now, regarding the term “organised crime”, the Home Office’s Serious and Organised Crime Strategy defined that as:

“...characterised by violence or the threat of violence and by the use of bribery and corruption: organised criminals very often depend on the assistance of corrupt, complicit or negligent professionals, notably lawyers, accountants and bankers. Organised crime also uses sophisticated technology to conduct operations, maintain security and evade justice.” (Home Office, 2013: 14)

English officer 1 provided a view which could serve as a tool to restructure this. He/she mentioned that trafficking can undoubtedly be organised crime, but not in the sense of transnational criminal networks of highly-organised criminals. It could also be low-level traffickers or families practicing trafficking for reasons pertaining to poverty or “because it’s almost culturally accepted and that’s the norm” and might not have “Mr Big above it”, but just a loose network of “some familiar members”.

Manager 2 from a Scottish support providing NGO agreed that traffickers are invisible due to low numbers of prosecutions and convictions, while he/she also questioned whether they are as organised as thought, especially since many victims become traffickers themselves to escape exploitation:

*So I think that they are shadowy, there are kind of myths about who the perpetrators are and it's organised crime and it's like the snakeheads and I think it's a bit looser than that, I think...[pause] within our experience, women can become exploiters as a way to get out of being exploited. So women almost move up the chain and they get away from being forced into prostitution by becoming, errrrr, in control or exploiting the other women. So, that she may have started off as being trafficked but her way out in self preservation is to become a perpetrator. And I think that that can get quite unclear as well.*

*(Interview with Scottish support providing NGO Manager 2)*

The above extract corresponds to UNODC's (2018: 35-36) official statistics in chapter 1, according to which 31% of the perpetrators investigated/arrested, 35% of those prosecuted and 38% of those convicted for trafficking were female. As commented there, this puts trafficking among the crimes with the highest participation rates for female offenders, subsequently underlining trafficking's grey areas regarding the varying levels of victims' consent, previous knowledge or suspicion, along with the fluidity between victims-traffickers.

All in all, interviewees appeared polarised on traffickers' identity and whether they are purely organised, as mostly law enforcement interviewees supported, or range between organised-opportunistic, as mainly NGO interviewees claimed, with some exceptions (e.g. English officer 1 who recognised the range of traffickers). Policies, as seen in chapter 5, tended to focus somewhat more on the organised side of trafficking, slowly though recognising the existence of a traffickers' spectrum.

#### **6.4 Goals and Intentions of the UK and its Nations**

The policies in chapter 5 contained strong statements regarding their intentions towards trafficking/slavery. The words "eradicate" or "eliminate" were underlined as examples of absolute statements. Despite the UK's emphasis on trafficking over the last decade and his/her heavy involvement in strategic policymaking, the UK Government Official stated that he/she only heard of the NRM when the *Modern Slavery Act 2015* was debated in Parliament as *Bill*, meaning 5-6 years after the Mechanism's introduction in Britain (2009), adding that "whoever

was meant to be raising awareness or launching it, did a shocking job”. This denotes that the NRM may have started getting attention only after the introduction of the special anti-trafficking/slavery legislation.

In chapter 3, using a Durkheimian framework of thought, I showcased that similarly to any form of crime, the existence of trafficking practices is not a sign of societal pathology itself, due to the long-standing existence of this phenomenon, spanning over centuries of human history. What would constitute pathology, instead, would be an unexpected surge in trafficking rates and not simply the existence of trafficking. Thus, it would be unrealistic to talk about eliminating a practice which exists for so long, with Sharapov (2017) identifying such unrealistic practices in UK policies promoting trafficking elimination. This was corroborated by my policy-based findings, which confirmed this UK’s focus on eradicating slavery. On that matter, HTUPS officer 4 critically responded:

*Officer 4: UK and Scottish Governments have their Strategies and policies and it’s-it’s a utopia, if you want a better word, to achieve, you know. They want to eradicate all forms of human trafficking, but they passed legislation over 200 years ago or well ago before in 1807 and 200 years later, we’re still passing legislation trying to eradicate slavery or human trafficking. So, it’s always been there, it always will be there, errrrr, but it’s down for us, Police Scotland, to try and delivering that. Whether it’s achievable 100%...I wouldn’t say so. But, we’ve got to put that care and support round about the victims that we come across, to ensure they’re getting that correct care and support that they need.*

*KG: I actually agree with you, that “eradicate” is a very absolute phrase to use and it’s very unrealistic...*

*Officer 4: Sweeping!*

*(Interview with HTUPS officer 4)*

The reference about how slavery/trafficking have been going on for centuries and how the UK has been passing legislation to tackle them for the last 200 years provide good arguments against such “sweeping”, unrealistic statements made by the policies examined.

UK NGO worker 1 elaborated more, admitting that compared to other EU countries, there is an organised system in place for trafficking/slavery in Britain. However, “there’s a risk of



overpromising”, meaning the UK is “suggesting they have a specialist support system that I would question whether it’s actually fit for purpose”. This quote shows that the NRM and the British anti-trafficking efforts might be better compared to other EU countries; nonetheless, there is the tendency to overestimate the Mechanism’s benefits and promise or plan to achieve more than what can realistically be materialised. This extract provides the overture to the NRM’s problems and structural weaknesses further examined in chapters 7 and 8 and correlates to what HTUPS officer 4 said above: that the NRM and the UK policy context on trafficking/slavery make “sweeping” and “overpromising” statements after having painted a very black-and-white picture based on binary stereotypes between traffickers and victims, which to an extent neglect the grey lines and complexities of trafficking as a criminal activity and experience.

## 6.5 Summary

This chapter presented the interview findings on the representations of victims, trafficking experiences, traffickers and the UK goals regarding trafficking. Evidently, interviewees predominantly concentrated on third countries ignoring domestic victims, despite their prevalence in NRM statistics. Poverty was seen as a key push factor driving victimisation, whilst a polarisation was noted on the issue of victims’ prior knowledge/consent, mainly between NGO interviewees and law enforcement participants, with the latter tending to be more vocal on the existence of a spectrum of victims based on varying levels of prior consent/knowledge. Still, this does not eliminate their victim status, as trafficking victimisation is unrelated to consent or prior knowledge when vulnerability is present, serving as the overarching factor driving victims’ choices and pathways, allowing traffickers to exploit them. This provides a contrast to UK policies, which look less at vulnerability and its causes, caring more for the results of trafficking by fixating on expressions of trauma. Thus, they tend to concentrate more on cases of idealised victims, who neither consented nor knew and who portray visible physical and psychological scars serving to prove their *genuineness*. Despite that, I identified a slowly growing policy-based effort to recognise the varying levels of consent, prior knowledge, the spectrum of trafficking experiences and much less the fluidity between victims-traffickers.

A polarisation among participants was also visible on traffickers. Some interviewees -mainly law enforcement ones- presented them as organised, going somewhat further than policies, which

to some extent showcased the existence of low-level/opportunistic traffickers. Mostly NGO interviewees, though, either felt that our lack of knowledge on traffickers does not allow us to draw safe conclusions regarding their identity or supported the existence of a spectrum of traffickers. Fluidity between traffickers and victims was also mentioned. Simultaneously, some interviewees noted an unwillingness of UK policies to study traffickers and the factors driving their life choices, which leads to the next part, namely the UK policy-based goals regarding trafficking, summarised in chapter 5 with the word “elimination”. This was found by some interviewees to be “overpromising”, “sweeping” and consequently quite unrealistic, especially when considering the long-standing existence of trafficking/slavery and of anti-trafficking efforts, which are managing the problem, but have never come close to “eliminating” it.

The UK Government official gave a statement which serves as the opening for the next part, where the NRM’s problems will be analysed:

*I think there are two ways to look at it and I think both are right. One is to look at it as a pathology, that it is criminals who are creating victims. And I don’t underestimate how important that is, you know. Hopefully, when you speak to some victims, they will talk about the importance of justice. Certainly the ones that I’ve spoken to talk about that. So, that’s really important. It is a pathology. But you also need to think of it in terms of structure. So, what are the ways in which your approach is to immigration, your approach is to low-paid work, if you have market regulations, a whole range of things, which are actually creating the environment in which these things can flourish.*

*(Interview with UK Government official)*

This extract relates to chapter 3 observations on how regulating trafficking relates to how other broader issues, such as prostitution, labour and immigration, are regulated. My thesis focuses on immigration and its interplay with trafficking. This will form a significant part of the following chapter’s findings studying the relationship between NRM and immigration.

## **Chapter 7**

### **Findings on Immigration and the Balance of Power**

#### **7.1 Introduction**

As seen in chapter 2, the NRM process has been criticised by NGOs, the IASC and scholars and has been the subject of governmental reviews and reforms. The allegations concern most stages of the Mechanism: first responders' training and identification skills, short duration and low quality of support, delays in the decision-making process and discrepancy in positive decisions which both, according to chapter 1 statistics, disproportionately affect non-UK/EU potential victims. This chapter examines the practitioners' interviews in relation to broader NRM issues: the immigration status of those referred to the NRM and related matters, including the delays in the decision-making process and the discrepancy in decision outcomes, along with the balance of power and responsibilities in Britain and more specifically between Westminster and Scotland, since interviewees came from either England or Scotland.

Several polarisations were noted here. Most NGO interviewees supported the existence of an immigration-led mindset by the Home Office and the CAs fuelling delays and discrepancies in decision-making process, while others (especially law enforcement interviewees) attributed these to practical investigative difficulties, lack of time when immigration authorities are completing a referral for non-UK/EU individuals and a tendency for the latter to abuse the NRM and its benefits. Law enforcement interviewees also expressed concerns regarding the age assessments of referred individuals. Leave to Remain was seen as a way to help survivors reintegrate predominantly by NGO-related interviewees, with some law enforcement interviewees fearing that giving these more frequently to victims might make Britain a more welcome destination for traffickers. Lastly, some interviewees (especially politicians/governmental officials and law enforcement interviewees) felt happy with the current arrangements between Westminster and Scotland, while others (mainly from NGOs) were more critical, advocating for a Scottish NRM. What came to the forefront was the fragmentation around regulating trafficking, largely owed to the contrast created by the combination of a

centralised NRM coupled with the effect this process has on devolved matters, such as policing or local authorities.

## **7.2 Immigration and the NRM**

### *i) The decision-making process*

Before the reforms, decisions for potential UK/EU victims were taken by the NCA (MSHTU) and for international ones by the Home Office's UKVI, an agency primarily occupied with immigration and asylum. Craig (2017: 23) illustrated how individuals referred to the NRM, who were also asylum seekers, had their immigration status intermingled with considerations regarding their trafficking status and called for a separation of the asylum and trafficking system, so that individuals are not discouraged to claim trafficking status too out of fear of getting deported. Subsequently, UKVI was an NRM first responder, NRM and asylum decision maker, fostering a *judge, jury and executioner situation* for individuals going through both the NRM and the asylum process. This was addressed by the 2017 reforms and the introduction of the SCA, which however is a body still sitting within the Home Office, close to UKVI.

The previous situation, where two CAs were making decisions based on the individual's origin country, was deemed problematic not just because of the aforementioned conflict of interests and power, but also due to two other phenomena observed in practice: the discrepancy in decision outcomes between UK/EU individuals and non-UK/EU ones and the delays in issuing decisions, predominantly affecting the latter, as seen in chapter 1.

Examining the interview-based data on that, findings suggest a polarisation between mainly NGO-related interviewees identifying an immigration-led mindset of the NRM disproportionately affecting non-UK/EU victims and mainly law enforcement interviewees promoting more practical reasons for the discrepancy and delays, such as investigation difficulties, prioritisation of county lines cases, lack of time for in-depth interviews by immigration authorities when completing an NRM form regarding non-UK/EU individuals or efforts from individuals to fabricate stories in order to take advantage of the low threshold of the NRM's RGD and its benefits.

Interviewees from the HTUPS stated that delays are “normal and expected”. During our 2019 interviews, the Unit was still dealing with 2016 cases. UK NGO worker 1 stated:

*The allegations are true [...] and the impact it has on the individual, whilst they're in the NRM and they don't have a regularised immigration status unless they already have one, they don't have any automatic extra immigration rights [...] because they are in modern slavery. They're not free to work, they're not free, they have no independence, in essence they're completely dependent on handouts. It's disempowering, it's very difficult for them to hunt for opportunities for education, where they might have, you know, couple of lessons a week. And the rest of the time, because they have no money, they can't freely move around. So, they are often constrained to their homes or to their asylum accommodation to sit all over negative thoughts or memories from the past and I think it's... Yeah, it has a clear impact on their mental health and seeing clear deterioration over time. Yeah, for many people just losing hope altogether.*

*(Interview with UK NGO worker 1)*

The interviewee recalled a case where the individual had to wait two years for a decision, ending up feeling “hopeless”, stating that “All I need was my immigration status”. UK NGO worker 1 added that this situation of “limbo” combined with the trauma suffered increases the feeling of hopelessness and potentially creates risks for suicidal ideation. The word “limbo”, used by various interviewees to describe the status of waiting for a decision, was also used by Rotter (2010) in her research on the delays experienced by asylum seekers in Glasgow. Worker 4 from the second support providing Scottish NGO used it to describe how an individual feels, having to wait so long for a decision recognising his/her status. This ties to what UK NGO worker 1 said above regarding feelings of hopelessness and disempowerment for individuals, who are looking forward not just to an official recognition, but also to practical benefits to improve their status. Rotter (2010: 182-183) identified the same feeling of “powerlessness”, along with the sense of moving in an “uncharted territory”, whilst anticipating for all possible results of an asylum application. A world where more or less anything goes and one has to prepare himself/herself for the worst scenario, irrespective of their genuine refugee status and how strong their application is. These feelings are coming on the surface here too, painting a bleak picture regarding individuals’ expectations and the benefits the NRM can give. This situation, undoubtedly, creates distrust towards the usefulness of the NRM among professionals and potential victims, who will in turn spread their feelings around the community of NGOs and

service users, resulting in growing scepticism and fewer referrals, the Scottish NGO Manager said. This opinion correlates with the ratio of referrals per 100,000 population given in the Introduction, showing that Scotland's increase in referrals is taking place at a much slower pace than England:

*And even now that they've the SCA, it still remains within the Home Office. Whether it's accurate or not that there is an immigration lens put on that decision-making process, is debatable. But the fact is, I think, practitioners in Scotland believe that this is the case. So, if you are working with a vulnerable person and build up a relationship of trust and supporting them, then you suggest to them or recommend to them that they may look at this process and consider it as an option for them and they do that and it doesn't work out well, you have broken all that trust, not just with that person, but with all people who may associate with that person. And they may not access your service. So, within those communities word spreads very quickly. So, if you work in the homeless community and someone has a bad experience with the Home Office and they spread that word, 'don't go near cause'...You know, you've completely lost your trust base with your service users. So, there's lots of concerns around that. I'm not sure, I think that, they [NGOs] are a bit scared and so they interpret things as, yeah...So, one person said to me and they were working with homeless: 'Probably about 10% of the people I see, I think they've been trafficked and exploited at some point, but I've stopped referring them to the system, because there were so many of them who went missing.'*

*(Interview with Scottish NGO Manager)*

As regards the discrepancy in decision outcomes, interviewees from a Scottish support providing NGO were not surprised, attributing discrepancies to the lack of immigration issues attached to UK/EU potential victims. Worker 3 claimed that the Home Office is trying to "cut down on immigration", being less keen on wanting international victims to stay, who usually cost more to support compared to EU victims. Manager 2 stated regarding the pre-reforms system that:

*I say the reason UK/EU nationals get more positive decisions or are more likely to get positive decisions is because there is no immigration issue there. So the decision makers are NCA, there is no concern about awarding them Leave to Remain, they're entitled to be in the UK, it's not gonna skewer our immigration stats in any way [...] So,*

*it's easier to grant them a conclusive decision than to grant people a positive decision, which might then mean you need to agree to give them Leave to Remain in the UK [...] I am not gonna have to report back to my Head or Chief Officer that I've granted somebody a Leave to Remain. So, I honestly think it is to do with the immigration issue and I think the decision makers for non-EU survivors are pulled from asylum decision-makers, so the reason for those negative decisions will be the same reasons why we have an awful rate of positive asylum grants.*

*(Interview with Scottish support providing NGO Manager 2)*

The Scottish legal NGO Director argued that UKVI made decisions for non-EU individuals with a “clear conflict of interest” stemming from their adherence to immigration policies which are “designed to keep immigration down and figures down”, while the UK NGO Legal Director summarised the UK NRM’s nature, which unlike the OSCE NRM, felt “extraordinarily bureaucratic and immigration-led”.

The parallels drawn between the trafficking and asylum systems are evident. Sherlock (2005: 4) similarly stated that the Home Office is often “bound by a culture of disbelief” towards asylum seekers regarding their status as refugees. Souter (2011) employed a more radical critique when he talked about a “culture of denial”, with the Home Office often refusing to engage with the facts of a case or examining it with a mindset focused more on securing borders and weeding out false cases rather than on providing effective help and recognition to asylum seekers. What Souter means is that the Home Office’s mentality regarding asylum was less focused on human rights and more on borders in an immigration-led way, something also identified by some interviewees to be affecting international victims in the NRM.

Scottish politician 2 appeared surprised upon hearing -for the first time- the discrepancy in positive NRM decisions depending on victim’s origin:

*Now, that's really concerning! That worries me! Errrrr, why that would be so vastly different. I wasn't aware of that and I haven't done any, so I can't, but...[lowers voice] that's kinda racist to me frankly. I know these are quite strong statements [laughs]. So, I am being cautious about how I word it, but...you know...to have such a vast difference, would be...if I were there, I would...alarm bells would be ringing and I would be kinda looking at why this was.*

*(Interview with Scottish Politician 2)*

UK NGO worker 1 also attributed this discrepancy to the immigration-led nature of the process for non-UK/EU individuals and especially the immigration-led mindset with which UKVI operated as a CA before the reforms:

*Obviously, I think their minds are so much used to scrutinising things and trying to deal with claims for immigration, whereas these people are victims of modern slavery and I think these are very different decisions and to be honest, it was just a bit of, you've got certain working habits and working attitudes and I think they just crossed over to, errrrr, deciding whether someone is a victim of modern slavery.*

*(Interview with UK NGO worker 1)*

This extract offers a less radical interpretation of the discrepancy compared to the characterisation “racist” by Scottish Politician 2, underlining the work habits of an immigration body like UKVI and how those transcend and influence a matter only partly related to immigration. Nonetheless, many interviewees felt that the NRM, especially before the establishment of the SCA, is very immigration-led. This was indirectly corroborated by English officer 2, who said that UKVI was far more detail-oriented as a CA compared to NCA and “the cases, the rationale, the enquiries were far more thorough”.

Scottish NGO Manager agreed with the above allegations and connected that to how professionals and organisations in Scotland are fearful and sceptical towards the Mechanism, precisely because of its immigration focus that supersedes the need to protect victims' rights:

*I can't think of any other reason why it would be disproportionately so...apart from immigration. Which, you know, backs up everything that we've said about the fearfulness of practitioners, the fearfulness of potential victims...[pause] The system does have questions to answer and I don't think they have answered them sufficiently and as long as that persists, there will be questions. I honestly can't think of any other reason why. I would be interested to know if other people think there's other reasons. [laughs]*

*(Interview with Scottish NGO Manager)*

The interviewee meant that the NRM's immigration-led modus operandi discourages professionals in Scotland to trust and use it, not convincing them of its benefits for the victims. Scottish support providing NGO worker 4 firmly believed that trafficking does not have to do with



migration. This approach taken by Scotland, which is more focused on victims' rights/needs and which the same interviewee called "more socially liberal" naturally brings the matter back to whether Scotland should have its own NRM. Of course, with the ongoing reforms, it remains to be seen if the SCA will improve the situation and address the allegations against the NRM's immigration mindset. Manager 1 from a Scottish support providing NGO agreed with the non support-providing Scottish NGO Manager above about how the SCA is different to UKVI, which is definitely an improvement, but is still sitting within the Home Office, with whatever that might entail for potential victims. As he/she added, "I need to wait and see how that goes".

However, other interviewees disagreed, giving more practical reasons to explain the above discrepancies. English officer 1 supported that the discrepancy in decision outcomes and the delays are not caused by an immigration-led mindset of deciding authorities who want to reduce immigration in Britain, but is attributed to factors such as scarcity of information for international victims, efforts by many non-UK/EU individuals to abuse the system and the NRM's benefits and lack of time for immigration authorities to properly interview non-UK/EU individuals before completing a referral. The result is badly written NRM forms with few details and often about people who claim to be victims just to receive the Mechanism's benefits:

*I think the issue with the UK/EU referral, is that when they put a referral in, they almost got a more outlined case, whereas with an international/non-EU referral you find a lot of the time, those have been captured by the Immigration Service. So, they were spotted when they come into the country illegally or when they are filing their asylum claim. Some of them might be abusing the system and thinking well, actually, we'll put an asylum claim in and an NRM claim as well and what we find is that the story or the case that's detailed by the UKVI, which complete as a first responder the NRM, is so short and so lacking in detail that then the CA when they try to assess it, have got hardly any evidence or indicators to make a decision on. Therefore, if it's so weak, they'll go back to UKVI and say 'we need more details' and then it takes time to get hold of that person to identify them, if they have absconded or whatever and then when they do, there's not enough in the story cause a lot of them might be about trafficking that happened generally outside of the UK and it's such a sketchy story, 'oh I was abused, I was exploited', there is nothing there that is enough for an investigator. For these ones that are not EU, because they have been submitted by a first responder of UKVI, there's hardly anything there for the officer to investigate and then back to the SCA to make a conclusive decision. And that's why probably very few of them get*

*positive outcomes and they take a lot longer as well. And the reason it probably happened, you know, we've gone back in for more detail, they only have like 5-10 minutes with their clients when they come in at the ports, when they make the assessment of 'are they here illegally or are they claiming asylum'. They'll take the NRM at the same time, they don't really have the time to investigate the story. They are legally obliged to put the NRM in. Is the person signing it a victim of trafficking? But then they don't have the time to investigate the case in the first instance for detail on the referral form. And that means sometimes we don't get specific locations, where the exploitation occurred, we don't have really detailed story, the times of it, the years are out. So, there's nothing really to investigate and that's why most of the time it will be negative grounds.*

*(Interview with English officer 1)*

The UK Government official warned that we should be careful when making statements about a general favouritism of UK/EU victims compared to international ones stating that “we haven't got good data from which to make [...] there's a lot of hot air here” and that “everybody is waiting for a long time”. When asked about the delays and decision outcomes, he/she supported that “the danger is [that] we have a point of view and we look for the data to support it”, pointing out the determinism that often characterises some of the conclusions and claims made. The interviewee suggested that our pre-determined/pre-formed ideas often drive us into interpreting data the way it suits them better, rather than looking at numbers in a more detached way. He/she pinpointed the practical difficulties and the subsequent lack of information caused by the often transnational character of trafficking, making the investigation of international victims' cases harder, more precarious and time-consuming:

*Very often you have very-very little information. If you've got a UK person, you will have an awful lot more information [...] If you've got somebody who is presenting here saying 'I was trafficked across the Libyan Desert', the ability to find out with any sense of due process or any sense of kind of evidence is much harder.*

*(Interview with UK Government official)*

The same interviewee underlined the issue of county lines, defined by the NCA (2020b) as the practice where:

“illegal drugs are transported from one area to another, often across police and local authority boundaries (although not exclusively), usually by children or vulnerable people who are coerced into it by gangs. The ‘County Line’ is the mobile phone line used to take the orders of drugs. Importing areas (areas where the drugs are taken to) are reporting increased levels of violence and weapons-related crimes as a result of this trend.” (NCA, 2020b)

County lines-related cases “are being speeded through” and the “criminal justice system puts pressure on the SCA to make these decisions quickly, because there are trials linked to them”, the UK Government official said, with English officer 1 agreeing with this prioritisation. According to him/her, this -and not immigration- is a key reason why many cases are prioritised over others.

Lastly, English officer 2 pinpointed that the NRM is used with an immigration mindset from referred individuals too with the help of “unscrupulous solicitors”. The system is “abused massively, because it’s used in conjunction with the asylum claim and it’s used as a tool, because the threshold is very low, to stay in the country”. Irrespective of how limited the NRM benefits might be, they still constitute an improvement for people arriving in a foreign country without any support network in place:

*The reasonable grounds decision threshold is very-very low. So, few people get a negative reasonable grounds decision and that opens up a whole host of benefits to you and potentially to your family, so we do see a trend. For instance, we saw a trend of pregnant Albanian females coming in to [English city] saying that they had been trafficked from Albania into Italy and then found themselves into the UK. 6-7-8 months pregnant to use our facilities in relation to giving birth and then to have their children educated in the UK. So, I’m not saying that every single one was a victim or not a victim and I’m sure there were some victims amongst those, but you know, your suspicions raise when you then make contact with the Albanian authorities and find that their account of leaving Albania is completely different to what they’ve already told us.*

*(Interview with English officer 2)*

## *ii) Age of referred individuals*

A key concern for law enforcement interviewees was referred individuals' age. Police officers from both Scotland and England complained about visibly adult referred individuals claiming they are underage to be treated as child victims and be placed in children's accommodation. However, the police are not entitled to make age assessments, having to wait long for these to be made by local authorities:

*...about Vietnamese and Chinese [...] they would always send us a photograph of the person, so that we can ensure that the person who had been through the immigration system and applied for a visa or not was potentially the person we were dealing with at that time [...] just for identification purposes. And some of the people whose photographs were sent through, were clearly a lot older than what they said they were, but the Police have to take an age on face value. So, if somebody who is 28 tells me they are 14, I have to accept that he is 14 until it's proven otherwise by the local authority. So, I am not qualified to do an age assessment, local authorities are. Social services in the UK would conduct an age assessment.*

*(Interview with English officer 2)*

*Now social work accommodation, that's where it becomes difficult. Because the age of a child with regards to human trafficking is under 18 years, whereas in Scotland it's under 16, then you're an adult. So, you're then, you could be taking a 25-year old male and place him in accommodation with 15-year old children. That's...not right [...] but an assessment will not be done immediately. Therefore, even if it is for a short period, it wouldn't be right for an adult to be placed in child accommodation, with other children. Both for that adult and for the children. I mean there's issues surrounding that [...] So, if they claim they're 16 years old for example, then social work would be their support agency. So, even if there were indicators to suggest that victim was probably older, whether that may be their appearance or whatever, in Scotland it's social work's responsibility to carry an age assessment [...] [But] They don't do it immediately [...] You-you-you have to take everyone's word for face value. If they're telling you they're a child, then you treat them as a child. But I mean some of the reports that we do get in, they're clearly not a child. Clearly, possibly, mid to late 20s. So, you know, that*

*becomes a problem. I think this is all to do with the victim and if-if they are entering into the process, kinda, if you take a cynical view of it, they're entering it, because it serves their trafficking claim, they may be taking advice 'you'll get more support, if you're a child'. You know and that's questions that we can't answer, because we don't know who would have given them such advice or...Is that a cynical point of view? Possibly, but at the end of the day people are gonna make any efforts they can, aren't they?*

*(Interview with HTUPS officer 2)*

These findings imply that the *NRM* is a system abused for immigration purposes by both ends: the UK using it with an immigration mindset and the referred individuals using it for its benefits, such as safe house, food, care, access to NHS and potentially a long but still existing (and definitely clearer) shot to obtaining Leave to Remain.

### *iii) Leave to Remain*

Turning to the lack of a stable immigration status in the form of automatic Leave to Remain attached to NRM's positive CGDs, the Scottish support-providing NGOs called for a change in that. As I was informed by them, currently asylum and NRM processes are interlinked, meaning that usually NRM decisions come first, without DLR attached, leaving that up to the asylum decision. UK NGO worker 1 described how this precarious immigration status affects potential victims' reintegration:

*So, I worked with people who would go to the GP and ask for support for counselling and in one case the GP said 'No, we can't, because it's clear that your immigration status is the primary reason for your anxiety, so we can't refer you for trauma support [laughs], until, you know, things happen with your immigration status.'*

*(Interview with UK NGO worker 1)*

This shows how victims' healing process is impeded by unnecessary worries regarding their immigration status. Additionally, programmes such as Co-operative's *Bright Future*, a paid placement for former slavery victims, cannot be accessed by people without secure immigration status, which leaves many non-UK/EU victims unemployed. This may be crucial for their successful reintegration to society.

Further, Scottish legal NGO Director found the new policy about victims with a positive CGD being considered for discretionary 2.5-years Leave to be problematic, since this does not constitute a route towards settlement, as one needs four successful applications and therefore renewals for settlement, which is difficult due to high fees, along with the need to provide sufficient reasons as to why another Leave is needed. He/she advocated in favour of an automatic one-year Leave, similar to *Lord McColl's Bill*, but opposed giving 5-year Leave to Remain, like the one given by asylum:

*If-if-if your reason for meeting that 5 years is deemed as a danger to return, because of the risk of re-trafficking, then you can get that and we do often get 5-year permits. If that is the reason, then I don't think there should be a special route designed for victims of trafficking, cause then why not victims of torture, why not other...*

*(Interview with Scottish legal NGO Director)*

This opinion examines the issue from the perspective of *fairness*, since opening a special route for 5-year Leave to Remain not based on the asylum's concept of danger to return, but on the status of being a trafficking victim, may result to special treatment of trafficking survivors over other traumatised individuals, including torture victims. And these groups of people are in Britain for different reasons, since torture victims may be fleeing persecution and are therefore entitled to asylum, unlike trafficking victims who might not be fleeing such situations. Still, a benefit to some is not a cost to others and opening up a route for trafficking victims to get 5-year Leave to Remain to overcome their trauma could also prove a good starting point for doing other things on a needs basis, e.g. in relation to torture victims.

The UK NGO Legal Director felt that a key reason behind relapses and “cliff drops” is victims' precarious immigration status, with increasingly more being denied DLR, whilst advocating that since the CA employs the high civil standard of balance of probabilities, there should be an automatic Leave attached to every positive CGD. This contradicts the Scottish legal NGO Director, who claimed that the 2.5-year Leave is increasingly given to victims with positive conclusive decisions:

*If people don't have a Leave provision once they leave the NRM, then in terms of that fluctuating need, they don't have a status that will catch them effectively, in terms of systems, because for me your immigration status is now relevant to everything. It's relevant to your ability to get housing, it's relevant to homelessness assistance with the*

*local authorities, it's relevant to care, it's relevant, errrr, for welfare assistance. So, all these basic needs, that people actually need to stabilise...*

*(Interview with UK NGO Legal Director)*

He/she also called attention to the hostile immigration status for EU nationals, which will make them more reserved to come forward as trafficking victims. Brexit is definitely going to have an impact on the availability of legal immigration routes for continental Europeans to Britain and may lead some to seek irregular routes for immigration, the ATMG (2017) fears. These routes may leave them prey to trafficking exploitation. English officer 2 saw Brexit and the imminent repeal of Europeans' free movement rights to the UK as a pull factor already, making many "wanna get in before the deadline [...] to get an economic footprint in the UK prior to Brexit". Europeans end up being "quite vulnerable in the UK and that can quickly turn into exploitation".

Scottish Politician 2 called for Leave to Remain to become more "established". However, as Manager 1 from a Scottish support providing NGO said, many victims prefer repatriation, specifically Europeans ("most of them just want to go home"). OSCE (2004: 80-81) also promotes repatriation as a more realistic measure for survivors compared to long-term stays in the destination country, which will not be the preferred option for most states. Moreover, a provision for automatic Leave to Remain, as in *Lord McColl's Bill*, could not work on its own, but only if combined with extra support and trauma-informed practices leading to healing and reintegration, the aforementioned Manager 1 stated, advocating for support that would gradually reduce according to each case's needs until completely phased out, to avoid "dependency" of the individual on services: "we only stop working with someone, when there is nothing that we can provide that isn't available through mainstream services". This coincides with the principles of trauma-informed care and practice, where the goal is to help the traumatised person "reclaim their life" (NHS, 2017: 117), avoiding dependency.

Does giving Leave to Remain more frequently make Britain a more welcome destination for traffickers? UK NGO worker 2 used the word "scaremongering" to describe this fear. The Scottish Politician 2 actively dismissed this argument too, saying that "traffickers aren't really about taking people in here for their good. They're making money out of them [...] Their hope would be that those people would never be liberated in the first place", adding that "whether they are liberated, they get a Leave to Remain is not an encouragement". UK Government official agreed, rejecting this as a pull factor. Scottish support-providing NGO worker 4 claimed

that the UK is “already a welcome destination for traffickers” as the increasing referrals show. Scottish support providing NGO Manager 1 stated the following:

*Manager 1: To take somebody out of the asylum and say ‘ok, as part of the NRM process, you get Leave to Remain, you don’t have to go through asylum’...that would be wonderful! That would be wonderful if somebody didn’t have to be subjected to these processes and this period of...[exhales] no going forward, no going back, not being able to get a job, not being able to move on with their life because they are stuck in a system [...] So, if you’re gonna give Discretionary Leave why not just...make it as in the asylum, make it 5 years?*

*KG: That was my question. Why not [...] leave the asylum process for the people who just seek asylum and the NRM process for the people who have been victimised in human trafficking? And both giving automatic Leaves to Remain if you get a positive finalised decision?*

*Manager 1: They’d shoot me down in flames if I suggested it! Can you imagine the Home Office?*

*KG: Why?*

*Manager 1: Cause they would be saying ‘you’re just gonna encourage a floodgate of people’!*

*(Interview with Scottish support providing NGO Manager 1)*

This extract summarises the Home Office’s unwillingness, according to most NGOs, to attach an automatic Leave to Remain to a positive conclusive NRM decision. *Lord McColl’s Bill* is “stuck” in Westminster’s bureaucratic legislative process, the Scottish NGO Manager said and “as long as there’s a Conservative Government, there’s no chance of Lord McColl’s Bill going through”, the UK Government official claimed. According to several interviewees, the NRM is heavily influenced by and operates with a borders mentality instead of a rights/needs approach, which would put victims’ interests in the centre, as the OSCE (2004) instructs or “at the heart of everything that we do” as Theresa May had stated in her Modern Slavery Strategy foreword.

Contrastingly, HTUPS officer 2 feared that giving Leave to Remain easily to victims with positive decisions might lead many to fabricate stories or exaggerate:



*I think we have to be careful, because [...] if a victim is being prepped to tell a particular story that-that they will have a better chance of gaining Leave to Remain, then we have to be careful, because, again this might be a cynical point of view, but not everyone is gonna tell the police authorities the truth. So, if their aim is to fabricate a story that ultimately results in them getting Leave to Remain in the UK. And that's a difficult question, because I think anyone that is victim deserve to be supported. They deserve the opportunity of a better life, whether that's in the UK or not. However, separating the genuine cases to the non-genuine is really-really sensitive situation and I think it's very difficult.*

*(Interview with HTUPS officer 2)*

English officer 2 agreed, stating that allowing more victims to remain in Britain might make the country more appealing to traffickers. Interestingly enough, both views came from law enforcement officials, who recognised and feared the existence of this pull factor and who also emphasised, in chapter 6, the grey areas of trafficking/victimisation experiences creating polarisation among participants.

### **7.3 Balance of Power and Responsibilities Between Westminster and Scotland**

The NRM is a UK-wide mechanism operating based on different legislations, namely the *Modern Slavery Act* and the devolved legislations of Scotland and Northern Ireland. This devolution takes place, as noted, mainly due to differences in the criminal justice systems among UK jurisdictions. Nonetheless, the NRM operates differently in practice, with this being more notable between England and Scotland. The difference in recovery and reflection period (45 days in England/90 days in Scotland), Scotland using the NRM exclusively for trafficking cases, the lack of the Duty to Notify in Scotland (and the recent consultation with the goal of introducing it), the different NGOs contracted to support victims (Salvation Army in England subcontracting to other NGOs – TARA and Migrant Help in Scotland) along with the difference in police forces result in the NRM functioning differently between England and Scotland. This requires further examination on how current arrangements work across Britain. The question asked to interviewees was: “What amount of freedom do you have in Scotland? How effective is the balance of responsibility and power between UK and Scotland on the issue of human

trafficking?”. Interviewees were polarised, with law enforcement agents/politicians being less critical than NGO-related interviewees, who often promoted a separate Scottish NRM.

Scottish Politician 2 felt satisfied with the current arrangements, supporting that Scotland has all the powers necessary regarding the “front-facing issues”, meaning “justice system” and “social work” issues. Immigration is reserved “because [if] someone is an illegal immigrant, that is a reserved issue”, but enough autonomy is secured for Scotland with “our own human trafficking law and how we deal with it”. The interviewee recognised that trafficking is not just about immigration, but still has to do with “someone being where they are, when they shouldn’t be”.

SOCA agent also praised the amount of freedom devolved to Scotland, claiming that “we’ve got a good balance of it” and that Police Scotland is better than English forces at intelligence/information gathering and sharing and at identifying victims due to its amalgamation: “We have one intelligence system. So, it’s really easy [...] and we can identify very quickly” whereas “when we used to have eight different police forces, then it may have been different”. He/she supported that “there has to be UK guidance on it [trafficking] for the legislation” adding that England and Wales are “picking up on that and treating it better nationally as well”, thus doing a good job of catching up with Scotland. HTUPS officer 3 agreed that Scotland has more independence and power with the new legislation adding that “we have a very good system and I think better for the support organisation they have down south”, recounting a story in Manchester where police, instead of an NGO, would “guard”, “safeguard” and “hold [victims] in an area where they’re already being held as a victim of trafficking”, unlike Scotland where “TARA take that responsibility away from the police to safeguard [victims] and get them settled in away from the police environment and get them calm”. This leads to victims being “more composed and a lot more relaxed [...] not scared that they’re gonna get locked up and not allowed to go anywhere [...] when the Police comes to see them”.

Contrastingly, HTUPS officer 1 found Scotland to be behind England and Wales regarding know-how and resources, because English and Welsh police forces “will deal with a lot more in terms of modern slavery and human trafficking”. HTUPS officer 2 said that despite the Unit’s small size, they “deal with it pretty well” raising awareness and updating on issues and cases.

Another issue mentioned by HTUPS officer 2 was when a person is referred to the NRM while held in Dungavel, Scotland (immigration retention centre). Then Police Scotland is charged with the investigation even if the victim was exploited elsewhere in the UK:

*...we receive referrals from one of the retention centres at Dungavel [...] Now, the victim, the only time they've ever set foot in Scotland, is when they were taken from somewhere else in the UK to Dungavel. Now, if the victim receives their reasonable grounds, they're gonna be released most likely back down south for example. [...] In England. But Police Scotland are in the position to carry out that investigation. [...] Because when the referral was submitted they were on Scottish ground. But the only time they've set foot in Scotland has been in the retention centre. [...] Well, what you can do is send Scottish officers in Birmingham to interview them. Then what you'd have to do is package that information and give that to the relevant force to investigate. Whereas surely it makes sense for the referral just to be sent back down south and that's where it starts. This is a bit of conflict that we've had with the whole NRM process, because if for example it happened the other way about and there was a victim up here, we would take on that enquiry. And even when they told us every part of their exploitation took place in Birmingham, we would liaise with Birmingham and explain 'this is what we have, investigation's over to you' and sent it down. [...] But it's the initial part of the referral. The referral comes to Police Scotland only because they're in a Scottish retention centre.*

*(Interview with HTUPS officer 2)*

This shows a lack of communication, organisation and possibly a fragmentation in the UK policing approach against trafficking, since cases occurring in England might end up being referred to the NRM through Scotland and subsequently Police Scotland will be responsible to investigate. This is owed to the deeper structural differences that exist throughout the UK. The lack of a unified UK police creates a complex situation for the investigation of such cases. This reminds us of Mulvey's (2015) observations on how the UK's approach to asylum, which is a reserved/centralised issue due to its ties with UK borders, still impacts on numerous devolved matters that are connected to how this reserved issue unfolds in practice. Mulvey (2015: 372) gives the example of housing and health, both devolved issues, which however interplay with and are heavily influenced by centralised asylum policies. Still, the effects of such an impact are left to the devolved governments and local authorities to solve (Mulvey, 2015: 372). The same thing is noted above, with devolved Police Scotland having to deal with an investigation related to a referral/case whose facts and details fully unfolded elsewhere in Britain, suggesting a similar fragmented approach caused by the contrast between centralised mechanisms, systems

and processes (asylum or NRM) and devolved services, agencies and organisations that get involved with it.

The following extract introduces the concept of the *postcode lottery* regarding the NRM support, another example of fragmentation in practice between Westminster and Scotland and how they use the NRM with different goals and mindsets. Therefore, a victim's fate is immediately dependent on the nation they are identified in:

*Manager 2: So we have been quite lucky in Scotland, in that Scottish Government has given us a degree of autonomy. So, as long as I can make a case that we're still working [...] 4 years down the line, because of x, y and z, Government have always been fairly comfortable, as long as I provide a good reason for that. [...] So, it [the UK NRM] just doesn't feel very trauma-informed or very centred on an individual's needs. It's all very time-bound, very process-orientated, it is weeding out people who have been lying about being trafficked, as opposed to what this individual needs to begin to feel safe and begin to disclose what happened to them and come in terms with that and move on.*

*KG: What about England and Wales?*

*Manager 2: So my perception about England and Wales [...] it's much more focused on: 'You're a victim of trafficking, so we're gonna get you somewhere safe to stay. And we'll make sure you've got money to live off' and that's it...focus has been very much about 'Oh my goodness, we've got a vulnerable...someone's been trafficked, we need to find somewhere safe for them to stay'. And that's how services developed and that's how the contract kinda seems to have developed in England and Wales. [...] ...it feels much more time-bound, a bit less focused on individual's needs. And I think the contractors and the subcontractors try their best, but it feels much more rigid than Scotland. And I'm sure they are supporting people for much longer than 90 days [...] but it's much more prescriptive. So, I'm aware it's part of the contract, subcontractors providing outreach support are only allowed to spend so many hours a week with a survivor. [...] ...we are much more focused on individual needs and longer term support work. We are not counting. We don't count the hours.*

*(Interview with Scottish support providing NGO Manager 2)*

UK NGO worker 1 added that despite some survivors having positive experiences and good support, that ultimately depends on the area they are located in, since there is “inconsistent care across the UK”. This underlines that the support offered and the NRM experience is highly relative, depending -to a large extent- on the location victims were identified in. HTUPS officer 2 supported that you either centralise everything to Westminster or completely devolve it, but mixing up the two is not the way forward. Further, Scottish support providing NGO Manager 2 suggested a Scottish NRM based on trafficking being a human rights and not immigration/borders issue and considering that human rights is devolved to Scotland. To my follow-up question on whether it would be better to centralise the NRM, he/she stated:

*Manager 2: So Westminster would own it, the Home Office would fund us, provide support, the whole thing would be...? I feel a bit sick! [laughs] No! I would take to the streets to protest!*

*KG: Why is that?*

*Manager 2: [exhales] Because Westminster and the Home Office don't really think outside the Westminster or the Home Office bubble. I don't think some of our values, I don't think they share our trauma-informed response, I think it is about doing the minimum I need to do to meet obligations rather than centring survivors at the centre of it and by 'they' I mean Government...I don't mean individual civil servants or frontlines or...no, I would have to throw in the towel! I can't, I can't! No, I think, I don't...having attended meetings with the Home Office and others...my opinion has developed over the years of going to meetings in London, people talking about the UK, but when questioned only England and Wales. So, I don't think they care enough about Scotland and Scotland's people and how we respond to vulnerable members of our society and community. I think we have a very different approach and it's not tangible. Errrrr, I think to take it all, to reserve it all, would just bring problems to Scotland that don't exist. We are not perfect, we have lots that we could do better, and strive to do better and lots of things that we could do to improve, but we're more focused on victims and going to Westminster we would lose that. If you look at the Scottish Government Strategy, it's peppered from quotes with survivors...if you compare that to Modern Slavery Strategy, there is nothing there that reflects survivors. They're not interested.*

*(Interview with Scottish support providing NGO Manager 2)*

The above underpinned this interviewee's desire for a Scottish NRM, while furthering the Scottish NGO Manager's views regarding how the UK NRM is potentially too focused on immigration rather than on victims' rights, with Scottish practitioners being sceptical over its use, benefits and intentions, showing unwillingness to refer individuals to it. The Scottish legal NGO Director agreed with the prospect of a Scottish NRM again on the premises that human rights and law enforcement are matters devolved to Scotland, exclaiming that "human trafficking is not an immigration issue!".

Worker 4 from a support providing Scottish NGO elaborated on the political differences between England and Scotland, with the UK Government being more towards the right ("mad and Tory") and the latter being "more socially liberal". These differences reflect on trafficking, according to him/her, with Scotland emphasising more the rights/needs of survivors. The same interviewee also advocated in favour of a Scottish NRM:

*Worker 4: ...I mean it would be difficult for the right wing of the current Westminster Government, particularly the Home Office, so I think the Scottish Government are not angels, but are probably further to the left than the Westminster Government are at the moment. So, we do get permission to spend the funding on-on non-essentials, as would be seen as non-essentials, but make a huge difference. Like bus passes....But that would be seen as non-essential. Scottish Government is happy for us to spend some of our budget on that and I'm not sure that Westminster and the English Government would-would be quite as happy...[The Scottish Government] is more socially liberal, so [...] you're gonna find it easier to add non-essentials to the trafficking support. And that can make a massive difference.*

*KG: What is the English [meaning Westminster] approach like, in terms of...?*

*Worker 4: From my interaction with the NRM and the Home Office down there, from talking to my colleagues in staff conferences or when I speak to them on the phone, I get the impression [...] that it's much stricter that...everything...it's much more tightly controlled, you know. We bend the rules up here sometimes, to-to help people, who may be outside the breadth of our support. And that just doesn't happen down south, cause if they find out that you have, you would get in real bother...*

*KG: And you say that this has actually to do with the, let's say, political direction the two Governments have?*

*Worker 4: Yes. I would say. And again, I don't think they're angels up here, but I do think that they-they-they are definitely less difficult to be as mad and Tory as [laughs] as the current Government is.*

*KG: Would you advocate for a Scottish NRM?*

*Worker 4: Yeah! I mean I would advocate for an independent Scotland, so...I am a bit biased on that, but yes! Yes, I would! I think, errrrr, I think we have different demographics, I think we have a lot more Vietnamese as a proportion compared to down south...[exhales] I am not an expert, I'm not gonna pretend I know all the answers, but I-I think you could make it better suited to what we have here and what we are trying to do here compared to the one form and the overarching thing.*

*(Interview with Scottish support providing NGO worker 4)*

UK NGO worker 2 also recognised the quality of work done in Scotland advocating too in favour of a Scottish NRM:

*...If you're able to remove the fear of immigration, there is no reason, rationally, why Scotland should not be responsible for their own NRM and for granting and approving the immigration rights of the individuals that enter into the jurisdiction. And I feel the same for Northern Ireland [...] And I think with Brexit, there is gonna be a very-very-very strong pressure from the Scottish Government to potentially get rid of the NRM and implement a needs-based process. That's what I am hearing from my partners. I think that this sounds like a very interesting and exciting new development...and I-I-I am just waiting to see if that's gonna happen, but that's my feeling, that I do feel it should be devolved, yeah. Entirely! And the counter argument for that would be that, oh, you know, the numbers are a fraction of what they are in Scotland and Northern Ireland compared to England and Wales and that may be true, errrrr, but I don't think that that negates at the moment the quality of support that is provided [...] And I think the approach of the Scottish Government, which again may not always get it right, is that they foreground their approach on human rights and I think that for me, you know, being on paper is a big difference than England and Wales. So, errrrr, I believe it should be devolved, including immigration and, yeah, I-I look forward to what, if any, the future might bring in terms of the Scottish Government and their strategic moves...I really do!*

*(Interview with UK NGO worker 2)*

However, just a few minutes ago the same interviewee had reflected on the clear boundary between what is reserved to Westminster and what is devolved to Scotland, expressing concerns over a lack of appropriate infrastructures in Scotland (and N.Ireland) that would allow them to improve their work:

*It's although very clear what elements are devolved in Scotland and reserved. So, that inevitably leads to, you know, confusion over certain provisions and NRM reforms. The things that do and don't apply, the things that can and cannot work and legal cases that are relevant and are not. And I think that, you know, regardless of devolution the Scottish Government and TARA and all the other people might not want to admit this, but ultimately they are answerable to Westminster, as is Northern Ireland. [...] I think the divide across the borders is great. I think there's some fantastic work in Scotland and Northern Ireland. But again, they lack certain infrastructures to support that work.*

*(Interview with UK NGO worker 2)*

The UK Government official started by criticising the 2017 reforms: “decisions are not quicker, there is no evidence they are surer and I haven’t seen any data whatsoever about confidence of victims”. Reforms, as he/she added, have yet to deliver results and that “leads me to begin to question whether it’s not just an operational issue. Whether there is something more fundamentally wrong in the approach that’s taken”. When asked what exactly is wrong with the current approach, he/she answered that “I am not sure that the best way to support victims is to have national decision-making and national support”, instead suggesting a more local-based regional approach, realising, though, that this would be difficult especially for England due to its size and number of referrals it receives.

In summary, whether human trafficking can be completely devolved or not to Scotland and subsequently Northern Ireland, England and Wales depends on answering the following question: What is human trafficking about? If we accept the views of some interviewees that it is about victims’ needs mixed with a strong human rights dimension and a law enforcement/criminal justice issue against perpetrators who exploit victims, removing the “fear of immigration” as UK NGO worker 2 stated, it can be completely devolved to Scotland. If we consider though, as said in chapter 3, that many victims are foreign, having migrated to the UK, then it is also a matter pertaining to immigration and subsequently Leave to Remain



arrangements or border regulations. Based on that, it is quite hard to imagine an independent NRM without an independent Scotland or independent Northern Ireland and currently borders naturally remain reserved for Westminster. This is the reason why the above contradicting statements of UK NGO worker 2 were expressed within only a few minutes of difference to each other. Because of the difficulty in pinpointing what trafficking is about and what is the best balance the UK can strike to keep all parties satisfied, meaning professionals, victims and governments. Thus, what findings suggest is that, as long as scepticism against the British NRM remains on behalf of Scottish practitioners, this will always be one serious reason hindering the rise of referrals in Scotland.

## **7.4 Summary**

This chapter examined the NRM in relation to immigration, exploring the allegations concerning the favouritism of UK/EU victims over international ones. Many NGO-related interviewees were concerned about the existence of an immigration mindset by the NRM, treating referrals as immigration cases, thus tipping the balance more towards the immigration aspect of trafficking rather than the victims' rights/needs one when deciding. This UK viewing of trafficking through an immigration lens was already identified a decade ago by Jobe (2010). However, serious practical difficulties evidently exist too, according to the UK Government official and some law enforcement interviewees, such as the scarcity of credible information regarding international victims' cases and their transnational character, subsequently fuelling delays and hindering the issuance of more positive decisions for them. The SCA constitutes an improvement and it remains to be seen what results it can bring. However, some fear that since it still resides within the Home Office, it will continue being influenced by the same immigration mindset.

The state of limbo and powerlessness regarding how victims feel about delays and their immigration status were also underlined. This complements HTF's (2016) findings regarding the lack of life stability for trafficking survivors, corroborating how "a positive CGD must carry status" (HTF et al., 2017: 2). The argument that if the UK starts giving Leave to Remain more generously, Britain will become a more welcome destination for traffickers was also examined and illustrated a polarisation among interviewees, again centred mostly around the dipole NGO-law enforcement.

Additionally, differences between Westminster and the Scottish Government became obvious. Westminster allegedly revolves more around maintaining a balance between adhering to minimum legislative standards for victims' needs and keeping a tight control over borders, security and budget reducing the number of non-UK/EU people who can stay in the country, while the Scottish Government seemingly shifts its weight more towards victims' rights/needs. This correlates to the discussion on how state policies are shaped by the conflicting needs a state has to satisfy, but also shows how many gaps are potentially left in both fronts when a balance is attempted to be stricken. It may also justify the existing scepticism of some Scottish practitioners regarding the NRM and its benefits to victims. These differences, coupled with the contrast of having a UK Mechanism operating through devolved services, underpin the UK's fragmentation on regulating trafficking. In the middle of this difference in viewpoints, lies the trafficking victim going through a *postcode lottery*, encountering very different experiences from start to finish based on where he/she resides. The Scottish Government's different approach to trafficking feeds the discussion for a Scottish NRM, which however, as I will demonstrate in the Discussion, is difficult to materialise.

## **Chapter 8**

### **Findings on the NRM: Process and Provisions**

#### **8.1 Introduction**

This chapter will focus on the allegations against the NRM process, examining in detail the Mechanism's operation stage-by-stage based on the practitioners' interviews. Emphasis will be given on first responders, their identification skills and the initial stages of an NRM referral. Following that, I will present the interviewees' opinions on the NRM support, the accommodation provisions and on the annual increase in NRM referrals, which, as seen in chapter 1, is combined with a low number of UK prosecutions and convictions.

Findings suggest an increase in awareness among first responders, but not among non-first responding organisations, which might encounter survivors (e.g. organisations for people experiencing homelessness). Allegedly, the NRM works better with clear-cut, straightforward cases rather than blurred cases lying in grey areas of the trafficking spectrum. Regarding support, there was a polarisation between NGO-related interviewees who were more critical of its quality and duration and law enforcement interviewees who appeared more positive. Lastly, the often transnational character of trafficking, coupled with victims' trauma, fear of traffickers or authorities and victims' frequent lack of knowledge of details around traffickers impede more successful criminal justice proceedings. Victimless prosecutions are promoted by some interviewees, however they are also found to possess serious limitations. What is instead put forward is the need for victims to be at the forefront of criminal justice efforts.

## 8.2 Examining the NRM Process: How Does the UK Mechanism Measure up?

### *i) First responders and identification*

As seen in chapter 1, a rise in absolute numbers of NRM referrals is noticed steadily every year (see Figure 1). Findings from most interviewees suggest that this is due to improvements in awareness levels of first responders, with few participants speculating on an actual increase in trafficking. Noticeable exceptions include the GLAA representative, who stated that “organised criminality [...] realises that trading humans can be more profitable” consequently focusing more on trafficking rather than “drugs or commodity smuggling”, with worker 3 from a Scottish support providing NGO agreeing that except for increased awareness “there is more trafficking [...] taken over from drug dealing”. As established, trafficking is often labelled as a covert criminal activity, therefore, unlike these two interviewees, the rest found it too risky to speculate on an actual increase of trafficking in Britain. UK NGO worker 1 summarised that “nobody really knows whether it's increasing” with Scottish legal NGO Director repeating “I don't know”. The UK Government official stated that we have only seen “the tip of the iceberg” so far, implying a large dark number of unrevealed cases, attributing the referrals' rise to increased awareness and supporting that nobody can safely say whether there is an actual increase or not. English officer 1 added that police were always “aware that things were going on before. It's just that they weren't identifying and reporting it” due to lack of awareness or training, which has changed, since “now they [local neighbourhood police officers] know the signs”.

Deepening the discussion, findings show that the NRM and first responders still tend to work better with straightforward cases, where the identities of victims and perpetrators are clear-cut, rather than complex cases lying in grey areas. Simultaneously, regarding first responders' identification skills, most organisations interviewed and especially those acting as first responders often criticised one another, pointing the finger to a different direction, seldom engaging in self-critique.

For instance, interviewees from a support providing Scottish NGO were sceptical about Police Scotland's abilities to complete referral forms correctly, giving examples of poor completion and underconfidence, with officers being unsure what information to include or if this is even the right form to use. Some forms by Police Scotland are good and analytical, the same interviewees added, but, as worker 2 said “other times you just struggle to find indicators [or]

you just maybe see 'rape'. And I don't want to minimise the word 'rape' but we are not rape crisis". Often, forms fail to provide information regarding trafficking indicators (e.g. some forms state that the person is trafficked by her "demeanour"). Worker 3 mentioned that Police Scotland is missing on a lot of cases, calling their forms "appalling", "handwritten scribble" with "scant information", thus aligning with Home Office's (2014a: 4) characterisation of many forms as "clumsy". According to him/her, in the past, Police Scotland was "dropping off" potential victims to their NGO after identifying them and when asked if they completed an NRM form, they admitted they had not even heard what that was. Manager 2 confirmed that "there is no consistency" in forms, which can range from "a single line" to "pages and pages" containing no relevant information on the trafficking incident. Some cases are introduced to the NRM, even though they are clearly not trafficking incidents due to first responders' fear of missing out on a genuine case, since as Manager 2 claimed "nobody, particularly in public authorities, wants to be the one who missed someone who maybe was trafficked", adding that:

*So, for me, the NRM was designed to reflect cases such as a police operation, police raid a brothel, they found a woman who has been very clearly trafficked and exploited, she is very pleased to see the police, views that as being rescued, the NRM is submitted, there's lots of objective evidence, errrrrr, to back up the policing concerns and her-her account and in situations like that the NRM works the way it should work. So, very quickly you would get a reasonable grounds decision, she is very happy to cooperate with the police, police gather lots of information that is then used to give a positive conclusive decision. So when it works simply, there is a real benefit to women, for a lot of women having that positive decision means for them that they are, for them is something tangible, that she's believed, that authorities believe what's happened to her. So, for simpler cases, I think the NRM has-has positive outcomes.*

*(Interview with Scottish support providing NGO Manager 2)*

Still, worker 4 from a support providing Scottish NGO recognised that Police Scotland has improved as first responders, pointing the finger at social services:

*For a lot of groups that don't spot it early enough, it's lack of training [...] So, I can tell you, Police are pretty good, Border Patrol are pretty good, the Red Cross, they're really good at it [...] we don't have as much contact with people such as social work, who, errrrrr, are not as good at finding stuff.*

*(Interview with worker 4 from Scottish support providing NGO)*

Interviews with law enforcement revealed inadequacies in the training and knowledge skills of police officers across Britain. HTUPS's job is to examine the NRM forms of all first responders in Scotland, weeding out the ones where no trafficking is involved and sending those that include a potential trafficking incident to local police departments for investigations. This Unit is positive about Police Scotland's skills regarding filling in NRM forms:

*...the only thing that I tend to see about the police is, because of the training we have, we tend to be very detailed. We are detailed, because from early service, you're writing a lot of statements. So, you are asking a lot of questions that maybe other people don't.*

*(Interview with HTUPS officer 1)*

It is understood that members of an agency, body or organisation will show camaraderie defending their colleagues' practices. Interestingly enough, HTUPS officer 1, later on, admitted "some quality issues with the forms" attributing that to "lack of training". This complements the view of English officer 2, who said that "it comes as quite a shock to the police officers to stand up and tell them that they are first responders, because, they don't know", adding that trafficking-related police training in their region is obsolete and unable to keep up with the complex character of trafficking and the constantly changing/reformed NRM. The difference between Police Scotland and English Police Forces is the amalgamation of the former compared to the regional character of the latter, which immediately makes things less unified in England as regards police practice. However, the College of Policing in England and Wales is the same for all regions in this jurisdiction. Therefore, we can still draw some parallels with caution between English and Scottish police forces. The UK Government official called for more police forces specialising on trafficking/slavery, as we cannot "...expect people investigating cigarette smuggling or drug trafficking one day to-to-to just turn to a different commodity, which is people..." and commented on the HTUPS' worryingly small size considering the magnitude of the issue. Still, HTUPS officer 1 said that the digital NRM form will improve the referrals' quality, as it contains probing questions, which if left unanswered, do not allow the responder to submit it.

English officer 1 supported how English Police forces and local authorities "are getting a lot more training and awareness in the last 2 to 3 years". HTUPS officer 3 corroborated the view

that Police prepares good forms from their Scottish perspective, praising the two Scottish NGOs contracted to support victims on the matter, unlike Home Office's forms, which are completed based on solicitors' letters mentioning only "circumstances" and "just a couple of indicators".

Still, the UK NGO Legal Director complained about "a lack of transparency on how people get a first responders' status, particularly amongst NGO community". He/she called for an increase in first responders, as their organisation still had to "use the Salvation Army helpline" when encountering a victim, so that the Salvation Army could officially identify the survivor through "over the phone interviewing, which we don't feel necessarily is the most appropriate or best way to do first response, because you can't build rapport with somebody". English officer 1 agreed, stating that bodies such as Health Service, A&E or Prisons and Probations should be included as first responders.

In summary, even when positive views were expressed, the main point of critique for most interviewees remained the lack of centralised training among first responders, an issue, which, as seen in chapter 2, has been identified by the Home Office (2014a) and scholars like Malloch (2016), who pinpointed how inadequate training can often lead to wrongful criminalisation of trafficking survivors. As UK NGO worker 1 shared "...when I worked in the NRM, I did not receive specific training about victims of modern slavery. I knew it from previous roles". UK NGO worker 2 gave interesting insights on the available e-training, presented in chapter 2:

*...I think the commitment to first responders is positive, as well as the increase in statutory first responders, errrrrr, and the inclusion of special points of contact as first responders is all very positive, all great, wonderful. I think more NGOs should be first responders, but then is-is again monitoring, resourcing and quality assuring those roles and again there is no monitoring mechanism for that. [...] Yet, there remains no kind of central database [...] there's no kind of monitoring or quality assurance of first responders. You merely, for the most part, complete an e-module and you might get a bit of in-house training, if you're lucky, and then you are obviously a first responder. So, I think the intention is good, but I think again, reviewing that role, as they have done over the last years and they're about to publish kind of the new thinking on first responders, there remains many-many question marks about how that's gonna be appropriately resourced.*

*(Interview with UK NGO worker 2)*

Police Scotland, for instance, did not have permanent specialised college training on trafficking/slavery at the time of the interviews. The HTUPS is trying to spread out training among police departments and other organisations around Scotland, including fire services or banks (e.g. Royal Bank of Scotland) to increase awareness. HTUPS officer 3 mentioned that Scottish Power “feed things back to us”, with officer 4 describing how in England official training was rolled out in Police, but nothing similar existed in Scotland. The HTUPS organised a 4-day training course delivered twice a year in College, while there was discussion of a permanent College course. HTUPS officer 4 revealed a “growing demand for presentations and awareness and-and [...] local divisions [...] want to have more people and more students participating in the course.” The idea is to train a few officers from a department, who are named “Human Trafficking Champions” and who then pass on this training to the rest of their department colleagues. However, as mentioned in the interviews with HTUPS, Scottish Politician 1 and UK Government Official and as it was observed by me personally during my visit to the Human Trafficking Unit in Gartcosh, the Unit is rather small and possesses limited resources to conduct broader training-related programmes, especially when considering that this will be undertaken on top of their everyday work of filtering new NRM referrals.

Deepening the discussion on Scotland, GLAA representative underlined the differences between England and Scotland in practice:

*GLAA Rep: ...You know you can see some police forces that made 100-200 referrals and some that made 1-2 referrals. I think the better police forces tend...I say ‘the better’ [repeats his quote as a sign of thinking about it]. The police forces that made the largest number of referrals tend to be English police forces. I don’t know why that is.*

*KG: But isn’t the case also that England is a larger country, larger population than Scotland, so it has more cases compared to Scotland or N.Ireland for example?*

*GLAA Rep: Oh yes of course! 6 million people live in Scotland, 55 million people live in England. But then you could compare, you know, Scotland to an area like Greater Manchester. With Greater Manchester having a population of about, I guess, a third of Scotland. You know you look at the balance of numbers, there isn’t really any comparison there. So, I don’t know, maybe-maybe the issue isn’t as great in other countries of the UK. I don’t know what the answer is. It just strikes me, that imbalance and I think some police forces, errrrrr, put more resources in this area than others do. They try harder than others do to be honest.*



*KG: You mean the English ones.*

*GLAA Rep: It certainly looks that way if you look at the numbers, yeah.*

*(Interview with GLAA representative)*

This draws back to Introduction and the rate of referrals per 100,000 population for each UK nation in 2018. This rate was calculated to be 11.5 for England, 4.2 for Scotland, 8.1 for Wales and 2.7 for Northern Ireland. This contrast in the ratio of referrals is exactly what was picked up by the GLAA representative, but as established in chapter 1, this could well be attributed to England's greater size and market creating more opportunities for traffickers.

The interview with the Scottish NGO Manager put the issue of low referrals in Scotland under a different prism, namely the relationship between first responders and organisations not directly dealing with trafficking/slavery, who are still likely to encounter victims, such as NGOs dealing with homelessness:

*Scottish NGO Manager: I think that, at the moment, maybe first responders are quite distant from those service provision organisations, such as homeless services or whoever you see and a lot of practitioners within these organisations will not even know what a first responder is.*

*KG: So, you mean that the non-first responders, who are organisations who might get in contact with human trafficking victims, they don't know who the first responders are?*

*Scottish NGO Manager: Yeah! And I am sure they're not that confident about what human trafficking is, what the system is, how they identify people, what they do when they identify people. Some of them have had training, but the majority of people haven't had training and they would like training. Some of them, the training that they've had was like an afternoon's training. [...] ...as a practitioner, there are some things automatically in your head, when you're working with a service user, you don't consciously think about, you just tick those boxes, in terms of safeguard and risk and all of that. So, for example, if someone's presenting to you, you're automatically thinking about what their vulnerabilities are [...]. At the moment, there's few practitioners that I've met that human trafficking is one of those things that's in their head, that they automatically look for.*

KG: So, you say that there's a lack of education to people who might come in contact with victims?

Scottish NGO Manager: Yeah! That needs to be embedded in people's consciousness. So they say to me [...] in one afternoon training course on human trafficking [...]: 'Wow, that's unbelievable that that's happening! And so a week or so after it, we're really on high alert. And then it kind of dissipates. And we're not really looking for it anymore.' But [...] you know, in 6 months they may only see 10 people that are victims of gender-based violence, but they're always on alert for it. Because it's part of your DNA as a practitioner, to be looking for those signs. [...] So, that's where we need to get with human trafficking. I believe that it needs to be embedded in people's consciousness that when they are speaking with a service user, the automatic things that are in their head and they're looking for all the signs and human trafficking is one of them. At the moment, that's not happening.

KG: And do you think that's just in Scotland or that's UK-wide?

Scottish NGO Manager: I think it's more prevalent in Scotland. Definitely! We're definitely not aware. Otherwise, we would be seeing more people being identified!

*(Interview with Scottish NGO Manager)*

The above extract flags the complexity in regulating trafficking, with a multiplicity of agencies encountering victims through their routine activities (e.g. Scottish Power or RBS). This identification is "part of [their] DNA" for specialist practitioners. So, the question is: how can we expect from a non-specialist bank clerk or meter reader to have this in their DNA after a short training session with HTUPS? When asked about whether the rise of Scottish referrals is attributed to increased awareness the same interviewee said:

*I don't agree with that. I do agree that there is increased awareness if you come from a position of zero [...] But, I would like to see a much more strategic approach to awareness raising. And at the moment, I think that the approach to awareness raising and the implementation to the Scottish Strategy is very piecemeal. There is not a great plan about how we're going to develop that or what the aims of that are. We've had general public awareness campaigns from both the Scottish Government and Police Scotland, which had an increase in awareness immediately following it, but not sustained [...] I'm speaking with people who we would expect they would be seeing*

*potential victims of trafficking most days and they're not informed...I mean when I went to one of the big homeless charities and they had some training some time ago, so there was a little bit of awareness, so as a result of that, someone had been identified as being trafficked. The comment from the person I spoke to was...the person sort of opened up themselves and identified themselves as being trafficked. So, it's good that they trusted people around them enough to be able to identify themselves as being trafficked, but the staff were actually disappointed they hadn't identified it sooner themselves. [...] When I spoke to that person and what do you think about British potential victims of trafficking, they said to me: 'What?! We're not even looking for them! That's not on our radar!'*

*(Interview with Scottish NGO Manager)*

According to this, in the UK and particularly Scotland, awareness raising has been scattered and disorganised. Simultaneously, NGOs dealing with homelessness are poorly informed of what trafficking is, how it might concern them and the signs/indicators to look out for, whilst they are not well connected with first responders in case they identify a victim. This finding is corroborated by my personal experience during fieldwork. NGOs dealing with homelessness or refugees were among my first interview targets. These organisations could also prove to be gatekeepers or sources of finding survivors to interview. However, after emailing approximately 10-15 such NGOs around the UK for months, most of them ignored my emails, while others (predominantly Scottish) rejected my requests for an interview or a simple discussion, on the basis that they do not come in contact at all (or -at best- extremely rarely and not anymore) with trafficking victims, while some of them directed me to other organisations for further help. These latter organisations were usually other NGOs dealing with homelessness, which in turn also gave me similar dismissive responses or directed me to the most visible trafficking NGOs in Scotland and the UK. As the same interviewee added:

*I think there's two questions there. The question about why people choose not to go through the NRM. I wonder whether it's more about the practitioners, who are presenting that option to them, than it is about the victim's choice. Because most victims don't know anything about the NRM. So, why would they choose not to go? There are a number of reasons, you know, around fear and what not, but if you're working with a practitioner that presents any kind of negativity around that, then you'll definitely not going to go there.*

*(Interview with Scottish NGO Manager)*

This finding combined with the low ratio of referrals and scarcity of domestic victims in Scotland (NCA 2018, 2019), as well as with the policy-based findings in chapter 5 suggesting that Scottish Government policies tend to concentrate less on domestic victims, especially compared to Westminster policies, arguably pinpoints the existence of issues in awareness raising in Britain and mostly Scotland, which is seemingly restricted to narrower victims' images and to key agencies/bodies, rather than spread around a broader range of organisations.

Before examining the NRM support, findings illustrate that the complexities surrounding the victim's identity and the abundance of grey-area trafficking cases influence not only identification, but also the Home Office interview-stage of referred individuals. The following extract reveals the problems that authorities continue to face when dealing with complex trafficking cases even after identification:

*Worker 4: It is this insistence of asking the 'Why didn't you escape?' question. And the actual fact is that it's not that simple if you are afraid of people and stuck in, you know, if-if you and me were to be taken and stuck in the middle of a city in Vietnam, what would you do? I mean why would you run away? Because, it might be worse just around the corner! It's a lot more complex than just 'Why didn't you escape'. Well, it really doesn't work that way. Once-once people have been brutalised, it's not as simple as 'Oh, there's an open door, I am going to run'. Doesn't work like that. But it is a question that always, always gets asked. It can be a useful question in certain circumstances, but insisting on answering it over and over again, whenever the client reaches a point in their story where, you know, if it was a Hollywood movie they would have fashioned a rope out of their own hair and get out of the window. Not how it works in reality!*

*KG: Right! But-but the way they ask this question is almost like they're accusing 'Why didn't you'.*

*Worker 4: Yes! And again this is a function of being individuals. It depends on the person you are asking the question. I have just been in a Home Office interview with a client last week and there the interviewer was very nice actually, very...able to ask his questions without coming across as aggressive and yet if you get one of her colleagues, it can get really nasty and it can be demanding and it can be raising voices*

*and it can be...Some clients can deal with that, some clients will break down. [...] The Home Office have extremely high standards of proof. 'Why were you disappeared? I was trafficked. Prove it. Yeah...I can't prove it, I was locked into a warehouse, I've now been rescued, what do you want me to do? I can't go back and get the guy to sign a paper that says he locked me in a room for 2 months', you know, he's not gonna do that. And if he's arrested and charged, he's still not gonna sign that paper saying he did this.*

*KG: So, you mean that the Home Office is not very forgiving when it comes to...understanding cases...which are more complex, let's say.*

*Worker 4: Yes, yes!*

*(Interview with Scottish support providing NGO worker 4)*

The abovementioned practice is deemed problematic, suggesting that the NRM works better with more stereotypical cases, leaving a whole range of cases outside its protective umbrella. It also correlates to findings in chapter 5 with policies focusing more on the image of a traumatised, innocent and therefore genuine victim, which Sharapov (2017) believes aims to separate the clear-cut deserving-of-help victims from the rest of the non-deserving illegal immigrants. However, Miller's (2014) observations on the difference between the basic and bare right to migrate, analysed in chapter 3, also need to be considered. The Home Office needs to scrutinise whether the person possesses a basic right to migrate as trafficking victim or asylum seeker, subsequently justifying increased protection and not simply a bare right to migrate that every migrating person has, which in turn means that he/she needs to be subjected to an examination of their travelling documents. And this scrutiny is sometimes impeded, as shown in chapter 7, by practical difficulties fuelled by the often transnational character of trafficking and the lack of credible information for international victims trafficked over several countries.

## *ii) NRM support*

Findings on support revealed that the standalone counselling, psychological and medical services offered to victims are seen positively, generally praised by most angles. However, there appears to be a polarisation between NGO and law enforcement-related interviewees. The support offered is negatively affected, according to NGO-related interviewees, by not

tailoring services to each victim's needs, as was also identified by the Home Office (2014a: 6), and by the limited amount of the recovery and move-on period, which are not enough for victims to fully rehabilitate, constituting only the first step towards recovery. Contrastingly, law enforcement-related interviewees were more positive. Despite lacking the specialisation, which NGO-related interviewees possess on the matter, they emphasised the safety and stability the Mechanism offers for victims and subsequently for police investigations and how the Mechanism is a good starting point for recovery.

The opening question was about interviewees' general happiness with the NRM. Most NGO workers responded negatively, often with a simple "No". Findings revealed that the NRM is -at worst- hard to understand and embrace for survivors and -at best- a process providing a starting point for victims, only covering their very basic needs rather than holistically supporting and reintegrating them to society. Scottish support providing NGO worker 3 provided an interesting view on the term 'NRM':

*Even me as a conscientious worker, should say I've completed an NRM with a woman and I've worked with her for 2 years, it's my worst nightmare that somebody says to her 'Are you in the NRM?' and she doesn't know what the person is talking about. So, a regular piece of my work, every so many months, as an experiment also, I will say to my woman, 'Now can you tell me the two claims [trafficking and asylum] that you've got with the Home Office?'. And they don't know! They don't remember this NRM thing. You know, they just don't! I have to break that down [...] They just don't understand, is the terminology for all the things. Too long, winded, it's not meaningful. 'National Referral Mechanism'. Like, they need to start by changing the name. Ultimately it's the woman's document, they've completed it, belongs to them once it's really completed to do what they want with it. I'd like for it to be a bit more meaningful for them.*

*(Interview with support providing Scottish NGO worker 3)*

The above confirm the Home Office's (2019d) findings following the review of the *Modern Slavery Act*, which also suggested a change in the NRM's name to better reflect the services it actually offers. Worker 1 from the same NGO confirmed that the NRM currently is "...a very alien process to most women who access the service, that they might not be able to understand...". The only positive is that it "...gives them that opportunity just to say 'Ok we are here for 3 months, nothing bad's gonna happen, we are gonna get a payment, we are gonna get sorted in terms of accommodation...'". UK NGO worker 2 stated that the UK NRM is so different

to the one envisaged by the OSCE having “become far more bureaucratic and more difficult to navigate”, leading him/her to call it “Frankenstein”.

Workers and managers from both Scottish NGOs supporting victims had positive views on the counselling, psychological and medical support. However, we need to consider that these interviewees came from support-providing organisations, whilst support offered by the NRM is not NRM support per se, as it is provided by third bodies operating outside the Mechanism, such as the NHS or outreach NGOs. So, this benefit cannot be directly credited to the NRM.

Subsistence and the Westminster’s attempt to reduce the financial support offered to survivors through the NRM in March 2018, eventually quashed with court decision under number [2018] EWHC 2951 (Admin), was often mentioned by NGO-related interviewees:

*And that’s what they did in 2017, when they announced all these NRM reforms and of course in order to pay for the 45-day extension and support, they have to make a saving. And the memo very clearly said that in order to make that saving the rate of subsistence should be reduced. [...] And for me, you know, it went against everything that the Government was trying to do. Errrrr, and it-it ultimately presented a situation of, pretty much, abject poverty for people who were gonna be receiving that 35 pounds a week. And seemed to be against the very grain of what the Government was trying to say that it was doing in terms of supporting and helping people to recover. And so I think it was a really-really poor decision.*

*(Interview with UK NGO worker 2)*

Moving on to the post-NRM period, worker 4 from a Scottish support providing NGO reflected on how limited that is, at least before the recent Home Office (2020c) reforms analysed in chapter 2:

*Worker 4: I think the issue is the-the-the support cliff edge at the end of it. So, when you get a conclusive decision, that’s it, the support is finished. There’s no ‘Right, we’ll continue to support you’ or a ‘We’ll phase you out’ that sort of basis.*

*KG: So you mean it’s very abrupt.*

*Worker 4: Yes! Particularly for clients who get a negative decision. If they get positive decision, there is-there is leeway with the funding. If they come back two weeks later saying ‘Please help!’, we can. If they get a negative, you know, they’re incredibly*

*vulnerable people regardless of the decision they get. If they get a negative, then that's it, we can't really support them anymore and we end up signposting them to other organisations that are already underfunded...*

*(Interview with Scottish support providing NGO worker 4)*

This serves as the starting point to question in more depth the wider assistance framework and benefits the NRM gives starting from the move-on period and looking back on the whole process and how that leaves victims. As said in chapter 3, Doherty and Morley (2016) advocated for a multiagency-based approach to support survivors, centred on medical and psychological help, accommodation and legal aid to build trust and assist reintegration. Johnson (2012: 371) added that services for trafficking victims should firstly aim to satisfy the basic human needs, such as clothing and accommodation, then moving on to more complex needs, including medical, psychological or legal issues, financial aid, language learning, education or vocational training and repatriation in a tailored way for each victim. The UK NGO worker 2 built on that:

*...so although the Mechanism is-is fixed for everybody regardless of nationality [...] although that process doesn't change, what happens at each stage of that process, inevitably impacts on the next stage and also then what happens finally, if that makes sense. But then as you leave it, if you are a British national, for example, you turn around, look back to it and ask yourself 'Well, why did I go into that? It didn't really give me anything!'. Does that make sense? If I am destitute and homeless, I've got a safe house for 45 days, but then if I am a single male and I am spat back into, I don't know, rural Kent or Dover and I approach the local housing authority, despite the fact that I now have provision under the Care Act, I am a victim of modern slavery, because of things like austerity and waiting list for co-housing, I will be refused any assistance. I don't have any dependence and I am not a female. So, as a system, its benefits are [...] short-term benefits certainly, which include safety [...] comprehensive support and advice, both about my legal rights. And individual health care, but again this is a monopoly as every service is different and the quality assurance mechanisms that exist within the current contract are highly flawed and so, what happens from service to service is highly different if that makes sense. Errrrr, and so there are benefits, they're short-term, but I think in the long term it remains to be seen what the benefit of the NRM actually is. [...] ...by the end of the process you're conclusively determined to be*



*A or B, but it's what comes with that conclusivity, isn't it? And very little comes with it. It's all very well walking around with a piece of paper that says 'I am a victim of trafficking', but if I need long-term stability to rebuild my life, which, is built around [...] someone's hierarchical prism of needs [...] things like housing, education, the right to work, you know. These are the things, in terms of citizenship, that I require to rebuild my life. If I leave the NRM with a positive conclusive grounds, but then I've got a 5-year asylum process ahead of me, what good has the NRM done me? Particularly when the Home Office doesn't recognise anymore that, as part of an incentive to grant people asylum...*

*(Interview with UK NGO worker 2)*

The interviewee is referring to Maslow's hierarchy of needs. This theory supports that for an individual to be motivated to achieve their higher needs, he/she must first satisfy their basic needs, starting from what Maslow (1943) termed "physiological needs" (air, water, food, home, clothing) and moving on higher in the ladder to self-actualisation needs, meaning the desire of a person to reach his/her full potential. Allegedly, the NRM only achieves the first two levels during the limited duration of the recovery and reflection period. The top three levels are, arguably, not achieved, while after the conclusive decision and irrespective of its verdict, the NRM support ends abruptly, without continuing to provide for victims and foster an environment, where they can be supported effectively towards independence in a tailored to each victim way. It remains to be seen if the recent Home Office (2020c) reforms on the move-on period will improve the situation. Scottish support providing NGO worker 4 gave a story of a client, who despite getting positive NRM and asylum decisions was found helpless:

*I have one client who's got a positive conclusive grounds and a positive asylum decision. Great! Perfect! But now he's got to go and apply for Universal Credit and get into college and there is all of this other stuff and I can't help him anymore. Now this particular client speaks fluent English. He's very confident and will be absolutely fine. Now there are other clients who, if they were in that situation [...] would make a mess of their benefits application, would make mistakes applying for housing, who might end up homeless, who might then end up re-trafficked.*

*(Interview with Scottish support providing NGO worker 4)*

As many NGO-related interviewees supported, victims are left unprotected after the CGD with their long-term needs unsatisfied. These findings contradict the Scottish Government's official's statement that "every time a survivor leaves direct support, they are offered an exit interview to reflect on their experiences, ensure they are ready to move on to other forms of support, and gather learning to improve future provision". This allegedly badly designed move-on period, along with the aforementioned shortcomings in the NRM support may increase the risk of re-trafficking, the UK NGO Legal Director explained, since often victims return to traffickers, as the only source that could provide them with enough means to cover their needs. As the popular proverb says, *better the devil you know than the devil you don't know*. Adams (2011: 202) agrees, stating that the trafficking legislation's focus on the criminal justice side of trafficking rather than on victims' rights/needs, leads survivors to being treated mainly as "sources of information" instead of victims of human rights abuses, whilst those who are unable or unwilling to assist with prosecutions, usually face criminal proceedings, deportation and no further support. All these factors feed on the risk of re-trafficking (Adams, 2011). Scottish support providing NGO worker 4 mentioned two cases that were re-trafficked post-NRM, despite one of them having a positive CGD. These findings support many interviewees' claim that the NRM ends abruptly, does not cover the long-term needs of the people it was built to protect and after a short support period leaves them in *limbo*, where essentially traumatised people are forced to somehow regain control of their disrupted lives alone, without much professional post-NRM assistance. This coordinates with the legal dispute on the NRM move-on period reform analysed in chapter 2 and the Home Office's admittance that the blanket move-on period was "unlawful and incompatible with the Trafficking Convention" (Duncan Lewis Solicitors, 2019), as well as explains the subsequent Home Office (2020c) guidance on victims receiving at least 45 calendar days of move-on support following a positive CGD and 9 working days following a negative CGD, which remains to be seen how effective will be in practice.

Positive views on the NRM support were expressed mainly from law enforcement interviewees, causing a polarisation with the more critical NGO-related participants. SOCA agent praised the support and the statutory defence victims enjoy:

*It's getting people help and that's the thing! It's identifying that, although a person may have been committing a criminal act, such as the sex trade or cultivating drugs and they've been trafficked in the country [...] ultimately they're a victim and then, you know, gathering that support for them and getting them healthcare, getting them housing, getting them legitimate employment and, you know, if they want to get back to*

*their own country, if that's their desire and putting that in place, I think that really-really works, because the Police and Border Force can't do it on their own. They need the help of social work, they need the help of NHS, they need the help of Housing Associations and charities. Because everybody has a part to play in helping victims.*

*(Interview with SOCA agent)*

The same goes for the HTUPS. Officer 2 said that "it has been ok for this purpose", while both officer 2 and 3 viewed positively the support offered to victims and the work TARA and Migrant Help do along with other social work services involved. English officer 2 praised the NGOs they have worked with as "brilliant, amazing, fantastic, very cooperative", providing "invaluable" services and "fantastic safe houses". GLAA representative was very positive, claiming that the NRM ensures the investigator that the person:

*...is gonna be safe, they're gonna be cared for, they're gonna be offered support...Errrrrr, I just know, from our perspective, that people are catered for and they're offered some level of support. The other thing I feel as well, not just as somebody who's working in this field, but as a citizen of the UK, I think we have a lot to be proud of the NRM. It isn't perfect, it could be better. I think there was a court case yesterday that it said, that the 45 day-limit isn't legal. So, there are all these sort of issues about the NRM and I get that. But I think, as a country, we should be pretty proud that first of all we've got legislation in place and that we've got pretty-pretty strong support for a finite period of time to help them get back in their feet and recover from the dreadful situation that they might have been involved in. So, I don't think it's perfect, but as a country we should be pretty proud that we're doing more than 99% of other countries are doing [...] Hey, I mean, you know, you could identify a victim of human trafficking or modern slavery and you could give each 1 million pounds and a house to live in for the rest of their life and their own personal physician. You know what I mean? It could be so much better, but we've got to be realistic about the level of support that we can give to a quite large number of people and I take some comfort from the fact that it's a lot better from what a lot of other countries do.*

*(Interview with GLAA representative)*

The views offered by these interviewees use the mechanisms available in other European countries as the measure of comparison. Thus, these interviewees feel that the UK NRM has a

considerable amount of benefits and that -realistically speaking- it ensures the protection of victims providing a safe house and meeting their basic needs. These are crucial for an investigation, guaranteeing the safety of the victim, who in many cases is the key source of information for investigation processes.

However, as the UK NGO Legal Director points out, talking about the relationship between domestic and European/international legislation:

*So, errrrrr, in terms of the length and time of support, it was never envisaged within both the, you know, Council of Europe Convention or the Trafficking Directive that 45 days would be the only support provision. It's quite clear that the standalone provisions, they don't limit the support provision. The recovery and reflection period is supposed to be just that [laughs]; effectively a reflection. Errrrrr, because actually, and for me, it's clear that-that was never the intention that was gonna be the only support, but we have interpreted that that is the only specialist support required for victims. So, for me that's not long enough and it needs to be actually tailored to the specific needs of an individual and more focused around that.*

*(Interview with UK NGO Legal Director)*

This extract denoted that the NRM provides a bureaucratic, managerial process and experience for victims. In practice, though, Scottish support-providing NGOs distance themselves from the governmental line of 3-month support period, often providing support for months or even years:

*KG: ...but just to be the devil's advocate here, the Convention says a couple of very basic requirements and the UK has exceeded them and as you say they are taking pride in themselves, that 'we actually did so much better than the Convention'. So do you think that the flaw is in the Convention or in the application of the UK? Cause if they don't give you a high requirement, you don't have to follow it.*

*Manager 2: I think the principles in the Convention are sound. I think the stuff about a minimum 30-day recovery period was to get states to sign up. So, I think there was probably a lot of toing and froing between different states and parties, you know, so, just doesn't feel like it's a-a-a, the NRM as it's been interpreted, doesn't feel like it's focused on the individual recovery needs. It feels like it is one size fits all [...] it doesn't allow for flexibility to meet individual needs. So, we have a case just now that probably have been working with her for about 4 years and strictly speaking we shouldn't be*

*working with her for that time according to the NRM and the supports in place. But for the first 6 months of her being with us, she couldn't speak, she couldn't make eye contact, the team found her hiding in a cupboard when we went to visit her. She couldn't go out on her own. She was frightened. She would come into our office and she would be hanging on to staff, put the head down and covered. I mean she is amazing now, she is brilliant now, she's got Leave to Remain, she's got positive conclusive decision, she's studying, she's got a job, she's too busy to see us. It's brilliant, really brilliant. But, if we had applied the NRM timescales, we couldn't have got information from her to complete a form in that length of time. We couldn't have trusted that she was able to consent to that form, to signing that form and that going in. We wouldn't have been able to find out the different additional information needed to allow for a decision to be made, if we had gone on those prescribed timescales.*

*(Interview with Scottish support providing NGO Manager 2)*

The last interviewee suggested that the UK has misinterpreted the *Trafficking Convention* and the OSCE's NRM Handbook, which comes in contrast to what the GLAA representative said before about how the UK legislation and policy landscape tend to be ahead of other EU countries. The OSCE (2004) advocates in favour of a rights/needs-based approach, promoting inter-agency cooperation for a comprehensive and in-depth victims' protection. Protection, safety and shelter are crucial, along with support and victims' comeback to society (OSCE, 2004). But NGO-related interviewees illustrate that the UK NRM consciously deviates from the latter, failing to provide substantial help for victims.

### *iii) Accommodation*

The main housing arrangement is NASS accommodation, since most non-UK/EU trafficking victims also apply for asylum. Findings on accommodation confirm the issues pinpointed by literature on NASS accommodation and how that may be unsuitable to trafficking survivors' complex needs. Still, NASS does not cover UK/EU victims, who do not need to apply for asylum due to freedom of movement. In Scotland, both TARA and Migrant Help have limited emergency accommodations, able to host only few potential survivors who cannot find alternative arrangements. In England and Wales, the Salvation Army subcontracts organisations for the purpose of accommodation. This difference in practice among Britain's nations shows again the

highly disorganised and fragmented UK approach reinforcing the *postcode lottery* situation observed in chapter 7, creating a gap for UK/EU victims.

As Davis (2006) states, homelessness is a factor making individuals more vulnerable and therefore easier prey for traffickers. McClain and Garrity (2011) point out that homelessness is often driving survivors to return to traffickers and their previous exploitative situation. In other words, being exploited is seen as a lesser evil compared to homelessness and destitution. The OSCE (2004: 25) mentions that some survivors might not be in direct need of *protected accommodation*. Yet, shame might deter victims from seeking help from their families or even deter the latter from providing a safe house. Resorting to friends might open up dangerous paths to re-trafficking, as Viuhko (2018) found that despite popular belief that trafficking is primarily an organised crime, in reality traffickers are often friends, family members or acquaintances. Therefore, could it be argued that the UK NRM potentially violates the obligation for *secure accommodation* as mentioned in art.12 of the *Trafficking Convention* or as it was envisaged by the OSCE (2014)? And what are the dangers of being left homeless?

NASS accommodation was found unsuitable by many interviewees, with some adding how problematic mixing asylum seekers with trafficking victims is due to their very different needs and others countering that it is positive to mix the two so that they can socialise with each other. The latter, though, still called for better complaining procedures and easier processes of changing accommodation. Worker 3 recounted stories where female asylum seekers sharing flats with trafficked victims had brought men over to the apartment, further traumatising and destabilising the latter:

*Worker 3: I've got a girl, she was with an asylum seeker girl, who has 5 men frequenting the property every day. And my girl is terrified that she will be re-trafficked. Absolutely terrified [...] And they are trying to engage her in conversation, which has totally freaked her out. Cause she thinks they are trying to find out things about her. [The accommodation providers] don't want to know about that [...] what they'll say is that as long as men are home by 10 o'clock at night, she can have as many men as she wants in all day. And we know that the men are staying all night, but we can't prove it. My girl can tell, because she can count how many people are visiting the toilet [...] She might get terrified that something happens to her, she's put furniture against the door, she can hear the men moving about, it can re-traumatise her.*

*KG: So even if she testifies, doesn't that make any change?*

*Worker 3: No, you need to prove it. So what's happening, my girl is telling the truth, she's in her bed, she can hear them all using the toilet. So she'll say 'Well I know, there's more than one person cause I've heard them all using the toilet through the night, I've heard the toilet flush five times during an evening through the night', you know? And they've said 'Well...It could have been the female, maybe she has a weak bladder or maybe [...] she just drank too much'. They've got an answer, they don't really want to know, it's really not helpful [...] ...they are creeping about and my girl goes to her bed. She hears their footprints, she's very sensitive to noise, she can hear them walking about.*

*(Interview with Scottish support providing NGO worker 3)*

The poor condition of NASS accommodation was pointed out by worker 4, along with the unwillingness of NASS accommodation providers to fix flat-related issues, which happens only if the caseworker himself/herself calls to complain. UK NGO worker 1 described accommodations filled with rats or cockroaches, with UK NGO worker 2 claiming that many houses are “dilapidated”, “crowded”, “inappropriate” and “not fit for purpose”. Worker 3 from a support-providing Scottish NGO added:

*1980s decor, 1980s bathroom equipment, 1970s kitchens, everything is falling to pieces, very shabby, you know? Very few have been modernised. They are only obliged to keep wind and water tight. So, a private landlord can make a fortune. They can buy a flat in the worst area of town. They can buy them at auctions [...] In Glasgow, the people who have bought properties have prospered, they might have bought properties in an auction and especially in the recession they have bought undesirable properties for very little money and they've not done anything to them, apart from perhaps a cheap lick of paint and then you sell to [NASS accommodation providers], who have to take them. As long as the windows close, as long as there's hot water and heating works, there you go!*

*(Interview with Scottish support providing NGO worker 3)*

NASS accommodation has been heavily criticised in literature with allegations concerning its unsuitability, low quality and deprived neighbourhoods in which this accommodation is located (Phillips, 2006). These problems and particularly the combination of low housing quality with unsuitable locations may significantly impede the integration of asylum seekers in the UK

(Kirkwood, 2012). Bakker, Cheung and Phillimore (2016) explain that integration is a complex process affected by a wide range of factors and can therefore be easily disrupted. As Malloch and Stanley (2005) support, integration is a process starting right from the asylum seeker's arrival to the destination country with education, employment, healthcare and accommodation being crucial to its successful conclusion (Ager and Strang, 2008). Bakker, Cheung and Phillimore (2016) found that NASS accommodation has an effect on asylum seekers' health condition, negatively affecting refugees' integration in the UK, while also leading many to homelessness and destitution. These tie to the above findings on homelessness and how unsuitable accommodation constitutes a factor increasing trafficking victims' vulnerability, driving many to "cliff-drop" from services, potentially returning to their traffickers. All these further underpin the questions around whether the UK NRM provides "secure accommodation" (art.12 of the *Trafficking Convention*), as it should based on the OSCE NRM. The OSCE (2004: 72) specifically mentions how Germany's and Italy's "flexible system of different types of accommodation is more likely to meet the diverse needs of presumed trafficked persons than one general shelter" (OSCE, 2004: 72). This does not seem to be happening in Britain, since accommodation provisions appear fragmented and often relying upon NASS, an institution largely unrelated to trafficking victims and their specific needs, but also quite problematic and often unsuitable to its direct users, meaning asylum seekers.

### **8.3 Key Sticking Points for the Criminal Justice System**

Reviewing interviewees' views on first responders and identification, the point where most agreed on was the lack of centralised training. Still, NRM referrals are steadily increasing, a phenomenon most interviewees attributed to increased awareness and focus from authorities, something with which the ONS (2020) agrees, while the two Scottish Politicians also emphasised the introduction of specialised slavery/trafficking legislation providing the framework for these increased efforts.

Yet, the number of prosecutions and convictions in the UK remains low, as seen in chapter 1. This happens despite how most UK policies continuously underline the principle of 4 P's (Prevention, Prosecution, Protection, Partnership) and the goal of securing convictions. What



are the key sticking points for the UK's criminal justice system despite the rise in referrals and the increased criminal justice focus on trafficking?

Many interviewees emphasised trafficking's covert nature and transnational character making it a criminal activity operating across different countries. HTUPS officer 4 talked about how regarding "Middle East or East Asia [...] we don't have that understanding, the cooperation with them to share that information and evidence". Worker 4 from a Scottish support providing NGO discussed how difficult it is to investigate a cross-bordering crime:

*It's people escaping from places like Ethiopia, Eritrea and Sudan and the way you get to Europe is through Libya. A lot of people on their way through Libya encounter malicious [people] who exploit them. Errrrr, so they've suffered the exploitation and that is enough to get them into the NRM, but once they get here there's no one for the Police to arrest. The Police are not gonna go to Libya and arrest a member of the militia.*

*(Interview with support providing Scottish NGO worker 4)*

As the UK Government official added "if you've got somebody who is presenting here and saying I was trafficked across the Libyan Desert, the ability to find out with any sense of due process or any sense of kind of evidence is much harder". English officer 1 underlined too the complex and often "international angle" of trafficking, which calls for more international cooperation among police forces and better use of transnational policing schemes, including Europol, Interpol or "Joint Investigation", something also promoted by most UK policies examined in chapter 5. He/she added that many victims do "not want to engage or recognise themselves as a victim" impeding efforts for successful prosecutions and convictions. English officer 2 agreed with the low self-identification, also underlining trafficking's transnational character, which makes "roughly 40% of the referrals" automatically impossible to investigate. Regarding the rest, the victim often "doesn't know anything about the person that recruited them, who brought them to the UK, where they were held". There is also the lack of proper police training on trafficking established above, further impeding successful criminal proceedings. Scottish support-providing NGO Manager 2 stated that "it's [all] relying on survivors agreeing to participate in the prosecution process, rather than looking at how they can prosecute traffickers without needing a victim".

On that note, Police Scotland promotes the concept of *victimless prosecutions*, with HTUPS being overwhelmingly supportive of them. Manager 2 of a Scottish support providing NGO said that often survivors “are petrified and refuse to be anywhere near them [police] ever again”, while worker 4 emphasised how victims often feel “scared” that traffickers will hurt their “family back home that the trafficker might be in touch with” or “that the trafficker will find them in the UK”. Thus, trauma and fear hinder victims from serving as reliable witnesses. HTUPS officers agreed that trafficking is a hard crime to investigate, due to heavily traumatised victims “that’s been through all that” (officer 1), often carrying feelings of mistrust towards authorities and “fears around engaging with the Police” (officer 2), due to the corrupted status of authorities in their origin countries (“...they could have witnessed corruption, you know?” – officer 2). This often makes them “scared to speak up or worrying that anything’s gonna happen to their families” (officer 2), rendering it “hard to go through the process [and] disclose everything that’s happened to them” (officer 1). When asked how safe they would feel building a case without a victims’ testimony, all officers felt secure enough and positive towards victimless prosecutions or alternative ways of supporting a case (e.g. follow the trail of money).

However, there are two issues here. The first is austerity. Austerity, UK NGO worker 2 said, is negatively impacting on police work and subsequently on victimless prosecutions, which need certain infrastructure, budget and organisation to be enforced effectively. Combined with a lack of objective reviewing of the criminal justice approach and mechanisms in place (e.g. STPOs/STROs) to assess their effectiveness, austerity reduces the chances of success for victimless prosecutions:

*...major issue is austerity and I think the impact of, errrrr, the cuts on the Department of Justice. And that’s not even around policing at the moment. That’s just around the sheer complexity of building a case and the cost to-to the taxpayer is monumental [...] And so, I think that’s an element of it, but I also think that again the complexity of building cases, on the part of police, is pretty difficult as and when you’re given very limited information by somebody, who is a victim [...] For victimless prosecutions that requires [...] the infrastructure, you know, to be able to build these things. And that takes money [...] we rely ultimately across countries to build that litigation. And I just don’t think that the appetite or the money is there to do that. Everyone blames the police, but sometimes there isn’t the resources there to proceed. And I think this is the point where we’ve got this world-leading legislation, but we don’t actually have the building blocks in place to support it. You can’t implement austerity on the scale of*

*which it has been in the last 10 years across all UK public services, to the extent that it has and then still believe that you are 'world leading' in terms of tackling modern slavery. And I think there are some really systemic connections there. And I think, that's one of the reasons why there is a lack of convictions and investigations [...] But no one's sat down to review the Scottish Act, the Modern Slavery Act and the N.Ireland Act to ascertain how successfully these provisions are working. You know, we don't know anything about [...] the Slavery and Trafficking Prevention Orders [...] I found a tiny mention of them in the-the Police Transformation Report [...] There was no review or kind of investigations on how they were being applied for. Do people know how to apply them? When they fail, what learning is been, you know? There's no quality assurance of the sort of mechanism that we have in hand, if that makes sense [...] we're not looking at the provisions we've legislated for and we're not asking how they're working in practice. We've never done that. How can we know?*

*(Interview with UK NGO worker 2)*

The second point of critique regarding victimless prosecutions is founded on an inherent antithesis existing in the very rationale of this investigation method. Apart from cases, in which the survivor might not know much about their traffickers' identity or whereabouts, how is it possible to accept that by removing the main source of information, meaning the victim, irrespective of their reliability as witness due to trauma and mistrust, will help secure more convictions against a crime unanimously characterised as so covert and often organised that effectively blocks all other sources of information? Wouldn't it be wiser to try and help victims overcome their difficulties and testify? UK NGO worker 1 hoped that victimless prosecutions do not become "the easy way of prosecuting", while both the UK Government official and English officer 2 underlined that when a victim is present, sentencing immediately becomes harsher:

*The downside is that the English experience has been that sentencing has not been as severe and [...] if you haven't had the witnesses in front of the judge, that actually doesn't give the full narrative and gravity.*

*(Interview with UK Government official)*

*Victimless prosecutions without a doubt has its place. But from a very selfish police officer point of view, the difference between a victim being able to stand up in court and*

*give their account of what has happened to them and that impact on the judge and the jury, as opposed to reading out a victim's statement where there is little impact on, not as much impact and inference on their account in terms of sentencing, is probably about 5-8 years. So, absolutely, if it's an option, we will always pursue and progress a victimless prosecution. But I am a big advocate of if you look after your victim, if you provide them with the best care, if you continue to support them all the way through from start to finish and the start of an investigation all the way through to the court case and beyond, then there is no greater thing than an extra 5 years on the sentence.*

*(Interview with English officer 2)*

This is corroborated by research on the relationship between Victim Impact Statements, the general live participation of the victim in a criminal trial and jurors' decisions. These Statements were found to lead to more punitive sentencing, not just because of their content and emotional descriptions, but predominantly because they are a way for the victim to participate more actively in trial (Wevodau et al., 2014). What increases the harshness of sentencing, is not the Statement itself, but the victim's participation in the process. Victims' characteristics and identity have also been found to influence decisions and sentencing in accordance to Christie's (1986) ideal victim theory. For instance, Jones and Aronson (1973) research on rape victims' background identity, found that sentencing for rapists was harder when the victim possessed a more innocent and blameless identity, such as that of a married woman or a virgin girl, whilst Alicke and Davis (1989) found that a victim's lack of criminal background reinforces their innocence, serving as a driver for harsher sentences. Mitchell, Myers and Broszkiewicz (2016) concluded that the most important factor influencing jurors' decisions is the relationship between the victim's family and the harm caused, with sentences being harsher when the harm caused to the family was perceived to be greater, with the effect of harm on the victim and the victim's identity/character possessing a more secondary role. My findings corroborate that a victim's participation in criminal proceedings, as opposed to a victimless prosecution, could potentially lead to obtaining more information on the crime committed and therefore more successful criminal justice proceedings and increased sentences for traffickers.

This was underlined by English officer 1, who supported that "50% of good evidence comes from the victim". Therefore, it is crucial for NGOs to cooperate with police and help victims deal with their trauma successfully, so that they are also able to testify as witnesses. The UK Government official had a more balanced view on victimless prosecutions, making the analogy

to murder where the victim is absent to show that victimless prosecutions can produce successful results, further claiming though that “they are an option to be pursued in certain cases, but they are not some sort of magic bullet that people think they are”.

Testifying as witness, though, can potentially lead to secondary traumatisation of the victim, especially in sex-related crimes (Kirchengast, 2016: 96). However, others note that criminal justice policies that include and empower victims, helping them participate in trials, exercise their service and procedural rights, thus giving them a voice in proceedings, may have positive effects on victims, increasing their overall satisfaction regarding their involvement with criminal proceedings (Kilpatrick, Beatty and Howley, 1998; Herman, 2003). Reeves and Dunn (2010: 54-55) use the example of physically and sexually abused children and vulnerable adults in the UK, for whom very few prosecutions and convictions were also noted during the 1990s. The *Youth Justice and Criminal Evidence Act 1999* with its special measures aiding vulnerable witnesses, as well as the 2003 principle of *No Witness, No Justice* helped increase vulnerable witnesses' confidence in the UK criminal justice system, strengthening them to testify and consequently bringing more perpetrators to justice. Trafficking victims fall into the scope of vulnerable witnesses. Therefore, why isn't the NRM trying to support victims to recover and empower them to testify, instead of promoting victimless prosecutions as the way forward?

## 8.4 Summary

In this chapter, I examined the NRM process, looking at first responders' skills down to the NRM support and accommodation offered to referred individuals during recovery period with the help of practitioners' interviews. Findings showed that first responders' skills vary greatly, impacting on the quality of NRM forms. This aligns with the Home Office's (2014a) findings on misidentification issues and lack of consistency among first responders. However, the increase in referrals shows that improvements have been made in raising awareness. The lack of centralised training was pinpointed as the main issue correlating with the broader fragmentation in the UK's approach to trafficking and the NRM's start-to-finish operation across Britain. I advocate that this is due to devolution and the lack of a strong centralised guidance from the Home Office, since the practice in Scotland and the mentality of organisations there significantly differ to England, leading to a *postcode lottery* situation on identification, accommodation and

support. Regarding support, a polarisation was noted, with NGO-related interviewees finding the duration short and the approach not tailored enough, which, combined with the abrupt ending of the post-NRM move-on period, does not help victims reintegrate, fails to truly benefit them and ultimately abandons them, not addressing the deep-rooted factors behind victimisation, leaving them vulnerable for re-trafficking. Contrastingly, law enforcement interviewees were more positive, emphasising that the UK NRM and legislation are ahead of the EU and international standards, whilst advocating that the UK system is better compared to other European NRMs. They focused on the NRM's positives, how it safeguards victims, giving them stability of location and a good starting point towards recovery. As for accommodation options, these were mostly found inadequate, impeding victims' rehabilitation process. Further, regarding Scotland, the scepticism of many professionals and Scotland's different way of operating the NRM focusing more on victims' rights, as noted in chapter 7, along with the low trafficking awareness among non-trafficking Scottish organisations might be causing the low referral numbers there.

Evidently, trafficking's frequent transnational character makes criminal justice successes extremely hard to achieve, especially when combined with victims' trauma, fear and lack of information on traffickers. Still, the lack of substantial and effective participation of victims as witnesses in the criminal justice process came to the forefront. Allegedly, the NRM does little to help victims overcome their trauma and cooperate with authorities as part of their healing process, fails to empower them effectively through support in order to rise up and testify and subsequently impedes bringing more perpetrators to justice. Victimless prosecutions are -at times- treated as a *panacea*; however it is doubtful whether they can always be helpful, especially since they remove the basic source of information, the victim. The next chapter deals with Eve's case, examining her personal trafficking and NRM experience.

# **Chapter 9**

## **The Case of Eve**

### **9.1 Introduction**

This chapter is reserved for Eve, the survivor interviewed for this research. As mentioned in chapter 4, Eve is an adult non-white British female victim of sexual exploitation in England with a positive CGD issued before the 2017 reforms. Eve's case is quite interesting, since she does not fit the dominant interview-based victims' profile regarding origin countries, as illustrated in chapter 6, where interviewees mainly focused on foreign victims. She also does not fit the dominant policy-based narrative examined in chapter 5, which again focused more on foreign victims and strengthening policing cooperation with origin countries. Nonetheless, her profile agrees with the prevalence of domestic victims in the UK and particularly England, established in the Introduction.

This chapter is structured differently, meaning that connections to literature will not be drawn next to Eve's quotes as happened with practitioners, so that Eve's voice is heard as clearly as possible. The first section will give Eve's story verbatim with me intervening only to organise these quotes and provide passages from one extract to the next one. There, I will present Eve's experience as a domestic trafficking victim in the UK, her recruitment by traffickers and relationship with them, their profile, her encounters with police and support services. I will also give her NRM experience starting from identification and how she was misidentified for 10 years, moving on to the support and accommodation received and her account of the post-NRM period. The second part will discuss her story based on literature, identifying and organising the main interview themes to help the general discussion of the thesis' findings in the last chapter, where the broader conclusions of this research will be drawn.

Main findings include the recruitment means of grooming, violence and coercion Eve's traffickers employed; the misidentification issues of the organisations that came across Eve, along with the inability of Eve to self-identify as a trafficking victim; the sketchiness, disorganisation and fragmentation of the NRM services and the move-on period causing Eve

and other victims she met there to be re-trafficked, coupled with Eve's allegations concerning the neglect of British victims by services exactly due to their identity as domestic survivors.

## 9.2 Eve's Story

Eve's case is categorised as trafficking for sexual exploitation with poverty being a key factor behind her recruitment. Still, there were other factors, as Eve admitted, including growing up in a neighbourhood we would describe as a British urban environment characterised by multiculturalism, steeped with ethnic divisions. Her area "was quite divided" with several "no-go areas", while as Eve added "in certain neighbourhoods there wouldn't be necessarily a white person that would...they would live there, but they wouldn't really speak to any Asians".

Eve's trafficking experience spanned from early teenagehood, including a grooming stage by the white male neighbour who first approached her, befriended and recruited her: "before I was 13, there was, so when I was 6, there was a man [...] we'll call him Bob [...] Bob was white and the community that I lived in wasn't white". The grooming process was undertaken by this neighbour, who was also engaging in drug trafficking, cooperating with Asian organisations in the field:

*Eve:...[He] used to walk his dog and, so we all used to stop on the way to school and he just be like friendly and later when I was 13, we moved to a different road and he lived up the road, errrrr, yeah. And he was a ringleader for the Asians. So, his house was used to store in drugs...*

*PI: So, he approached you when you were a kid to befriend you and groomed you basically.*

*Eve: Yeah. [...] And then the Asian guys would be in a property and then that's how he would facilitate...*

Unfortunately, Eve provides no more details on these first days and how she viewed the whole experience then. She added that in the past (without defining if that happened before or after adulthood) the traffickers used drugs to pacify and control her: "One time they would inject me



with something in my arm and then other times they would give you [...] Valium.”, while she also talked about how she was taken to remote houses or flats to engage in sex with men:

*...they would take you...would be derelict houses and they would have, like, dust and mattresses on the floor, it'd be freezing, there'd be no running water, errrrr, the mattress would just, like, the springs would caught you, they'd make you sleep in them. [...] There were times, like, where you couldn't go to toilet anywhere...*

She further described other practices used by traffickers to control her:

*...they would follow you around to give you different phones and SIM cards and you could only use that one [...] So, when I had my own phone, they'd go through all your phone list and then see who you've been speaking to.*

Moreover, Eve recounted incidents where her traffickers used threats, particularly against her family, to establish control over her:

*...they would make threats towards my family, they'd know where I lived, they would say 'oh, I've seen your sister getting on this number bus, I could do this to her right now, if you don't come here' and they'd threaten to burn the house, they'd threaten to put fireworks through the lift box, they'd smash up the outside of the house...*

Other times, traffickers would exercise psychological violence, coercion and physical violence directly to her:

*...they'd put semen through the letter box [...] In envelope, used condoms. They would leave it on branches outside the house and that was their way of saying that they were, like, around and that they would use violence, so, they'd obviously broken bits of your face, they'd shave some of my hair off [...] and then when they wanted you to have sex with their people, if the person that was coming was, like, quite respected in their community, they would say that you had to, errrrr, have sex and enjoy it, so not put up a fuss and when I didn't they would beat you. So, someone would watch to make sure that you was doing it and they'd put batteries inside you to say that they would charge you up so you needed to be more...charged up.*

Despite Eve being exploited for 10 years, she was misidentified during this whole time. The reasons behind her misidentification were centred around her own misconceptions and those of the authorities she came in contact with. Eve did not identify herself as a trafficking victim,

because she always viewed her situation as her own fault: "You'd think it was your fault. So, I'd think it was my fault". She viewed it as her free choice, not understanding the factors that had placed her in a vulnerable position when she started following that pathway. Further, she admitted her misconception that trafficking can only take place transnationally, often reinforced by people she talked to: "I thought trafficking and everyone I spoke to thought that you would have to move country". Elaborating on older incidents when she was still attending school, she said:

*PI: And who was the first person you came in contact with, who tried to help you?*

*Eve: I think school. I had a math teacher, a math tutor, who once I am at school, errrrr, but they would question me about the injuries and stuff like that, but they would just assume that it was happening at home. And then there was another time when a teacher had saw me leave after lunch with an older male and then questioned about that. They tried to, like, ask me what was wrong, why...So, sometimes I wanted to do P.A. because of the stuff and then some members of the public helped me cause I was lost, cause they had left me in, like, the other side of where I had lived and I was trying to get to school and then I asked someone where...Yeah, so they tried, she...*

*PI: She tried to help.*

*Eve: Yeah, so she saw me in the morning and then contacted school and she tried to say that I was walking in the middle of nowhere and she gave me a lift to school. But then...And then social services came, but they weren't really that interested. And then...yeah, the police.*

*PI: So, when the social services got involved, how did they get involved? Did any of the teachers sort of contact them?*

*Eve: No, they kept getting referrals, but the male, so if he caused an injury, he'd contact the school or contact social services and say 'Oh, I've seen her mum doing this' or 'I've seen her sister do this to her'.*

*PI: Oh, so he'd report it back to them?*

*Eve: Yeah. And then they came to assist me, but...*

She was referred to a refuge for domestic abuse victims about “3 or 4 years before the NRM”, wrongly seen as a domestic abuse victim, only to be rejected by that refuge and be subsequently seen as a prostitute:

*...the refuge were more for, like, domestic abuse, so, I was told that I couldn't stay there cause I was too much of a risk and that the perpetrator wasn't someone that was related to me. Errrrr, and therefore it wasn't domestic abuse. The police had, so I was working with really nice police officers, errrrr, who knew me for quite a few years, but then another police force would intervene and they started to treat me as the criminal. So, I was a prostitute [...] So, they had to safeguard other people there and because the perpetrators were more than one, I was putting myself to risk and potentially could be used to recruit other girls.*

She went on to face suspicion and disbelief with police emphasising she had freely chosen this lifestyle:

*...they would, errrrr, pick on sort of inconsistencies, which there was a lot of inconsistencies [...] so once I was completely naked from the top, they would say, errrrr, I called the police, but I didn't tell the police I called them, I just said someone needs help and then they would say: 'Are you a prostitute? Are you using the police as a taxi?'...Errrrr, I would give a statement and then I would panic and give different numbers or different locations. Sometimes, I'd have my phone in my bra, so that, because, when the police were kinda coming into the house or finding the places, the traffickers would be around so that they knew I was talking to the police, so that was a proof that I wasn't telling the police it was them. They also said that I didn't fit the criteria. [...] When I was on my 18<sup>th</sup> birthday, they then said it was a lifestyle and a choice, that no one had forced me to get into the places. That no one had forced me to get into the van [...]. They didn't believe me and [...] they said that I put myself on these situations.*

Eve was misidentified for reasons pertaining to her not fitting the classic “narrative” of the trafficking victim, which consists, among other elements, of the victim being weak and heavily traumatised. She revealed that the officers “said I was resilient as well, that I wasn't traumatised” and they added that “the perpetrators were of the same ethnicity as me, I wasn't in care at the time, therefore I didn't fit that narrative of being a victim”. Overall, the authorities she encountered during that decade either ignored her, misidentified her due to restrictive

stereotypes or viewed her as a criminal (prostitute), which eventually stalled her identification and referral to the NRM. When the interviewer asked how she was eventually referred to the NRM, Eve admitted that a physical violence incident (another traffickers' means) triggered her identification:

*PI: So, how did you, eventually, get rescued then?*

*Eve: So, some of the victim support, because, like, months earlier, there was an incident, one that involved petrol and tried to set me light and then...*

*PI: So, doused you with petrol?*

*Eve: Yeah.*

*PI: Why?*

*Eve: Errrrr, because I said I was gonna go to the police and then I was found the next morning...*

*PI: They didn't set a light, did they?*

*Eve: No, they started out in time. Errrrr, and they sort of, the clothes were burnt, two jackets and then I was off my face, I don't know [...] and I was refusing to go to different addresses to have sex with, like, their people. And then a police officer found me and sent me to the hospital. The police, I just said whatever I needed to say to the police, I didn't tell them anything and then, yeah, victim support...*

However, the traffickers' threats only escalated after Eve made contact with the police and victim support services:

*...they were making threats to kill me, for going to the police, errrrr, and then they would show you things like, one of the, we'll call him Bertie, he used to have a [small private company]...he drilled in his arm just right in front, that they couldn't feel pain and they could do this. And they'd also take you, stop the car in places and show you where they could bury you and the ways they could kill you. And make it sound very real. Say they've done it before. Show you the things they would use and how they wouldn't get caught.*

Eventually Eve was referred to the NRM, but on her own initiative. In another incident where she was threatened by her traffickers, she decided to call the police. The police, though, dismissed her plea for help:

*Eve: So, I contacted the police and said I needed somewhere to go. The police weren't bothered and then victim support said that they are gonna refer me to this place, but they couldn't do it in the next sort of 2 hours and that's when I got in contact with the Salvation Army.*

*PI: So, the victim support got in touch with the Salvation Army.*

*Eve: I called the Salvation Army and got a referral in.*

*PI: So, in a way, you had to call them yourself.*

*Eve: Yeah.*

*PI: So, you called the Salvation Army, you were given the Salvation Army Modern Slavery number, cause that victim support worker sort of recognised the signs, but you had to make the call. What happened then?*

*Eve: So, on that day, errrrr, basically I was at home and the perpetrators were outside, they were driving up and down on the main road. They were outside the house, driving up and down and they'd swerve on the pavement and stuff flashing outside the house. Errrrr, so I knew I couldn't go outside the house. Obviously the police were like: 'Oh you've been really inconsistent, we'll add it on to the case log and you...If you are at immediate risk call 999. If they come in, but they are not in your property, so why are you worried?' And then, they said that, because it was a public place that there were no threats in text messages, they would call in, but I couldn't prove that they were, so I called, I needed to get out of there and then cause I was worried about them setting fire in the house, would do something to my mum or sisters.*

This shows the continuing suspicion of police and their unwillingness to help because of Eve's previous inconsistencies in her account, which as established, were caused by her trauma, fear and lack of trust. Eventually, she resorted to calling Salvation Army herself, who subsequently "recognised that [she] was trafficked and within an hour, 1 hour and 40 minutes, two Salvation Army officers came and just said 'Get some belongings and we'll take you to a safe house'".

She admitted she “didn’t really know what they [Salvation Army] were doing, but, at the time, I didn’t care, because I just needed somehow to get away. I was quite ill as well, so I just needed to get away from the area.” After being referred to the NRM, she stated that she saw for the first time written in police documents drafted for her case the phrase “history of being trafficked”, which was now used to describe her situation as a potential victim that had been trafficked and exploited for a decade since teenagehood.

As seen in chapter 8, the NRM services were deemed to be good, with the main problem being the short timeframes of support, which do not allow them to achieve positive results with service users. Eve, though, painted a different picture based on her experience. She commented positively on Salvation Army and the accommodation she was initially taken:

*[The Salvation Army] really supported and really understood it, so they didn’t ask questions, they didn’t ask anything re-traumatising and even up to this day, they kind of offered support informally, because they know that there is no other support. So, when I was in hospital for 6 months, because of the injuries from trafficking, Salvation Army came and supported me there. But that wasn’t under any formal duty. So, they went above and beyond [...] It was, like, nice to have clean bedding and that being able to sleep somewhere clean [...] So, it was nice, errrrr, it was warm and nice...*

Contrastingly, the medical support received was not well-suited to her needs:

*PI: Were you satisfied with the medical help you were offered when you were in the safe house?*

*Eve: Not really, because, well yeah, mm...The medical help that I needed, and so, obviously, I needed a lot of surgery down below, it would take a lot of time. Errrrr, they wanted to, like, ask you all the questions, errrrr, there was glass inside and stuff like that and they wanted to know, yeah...and they were a bit intrusive...*

*PI: The NHS?*

*Eve: Yeah...And it, they just kept asking you what had happened and...*

*PI: Over and over again?*

*Eve: Yeah. And then there’d be a different doctor and then you’d be transferred to a different hospital...*

*[...]*

*PI: So, every single medical person you saw within that time, you had to repeat your story?*

*Eve: Mm (affirmative).*

*PI: And how did that make you feel?*

*Eve: I just didn't really want to seek medical attention.*

*PI: Even though you desperately needed it, you just couldn't stand re-telling your story?*

*Eve: No, even if you didn't re-tell the story, there'd be all these examinations and most of the time it would be, sometimes it's a male doctor, errrrr, or then they needed two people to-to be there, so it just felt a bit...*

*PI: Intrusive.*

*Eve: Mm (affirmative)*

Regarding NRM counselling services, Eve used the profane word "shit" to describe them. After 10 years of continuous traumatic exploitation, she was only offered "six counselling sessions" through the NRM. She narrated how meetings were handled in a bureaucratic, standardised way, where sessions would be held within narrow time frames and subsequently there would be no time to open up or let out emotions. This situation was aggravated by how the next victim was waiting in line right outside. This approach shows a lack of tailored counselling and psychological help offered to victims to overcome their trauma:

*The counsellor would be in a building, where as soon as you finished your session, another girl would be waiting for her session, errrrr...And then if you're upset or, yeah, it just wasn't...And there was no, yeah...*

In fact, after the first 3 weeks and still well within the 45-day NRM reflective period, Eve was transferred to another safe house run by another local organisation subcontracted by the Salvation Army, "which wasn't for survivors, but it was for people with life-controlling issues, like eating disorders, self-harm". But as Eve stated, that safe house was "still part of their safe houses. So, I was the only person that was in the NRM that was in the safe house and then they

started moving other British people at that safe house". There, Eve claims that domestic victims experienced poor treatment and neglect from staff members, who pushed for them to move out of the safe house the moment they could claim their benefits: "We weren't seen as in need, I guess, as the others", Eve said. Therefore, using the benefits UK nationals could claim more easily as an excuse, they advocated for domestic victims to leave the premises and move to alternative housing, potentially private, to leave space for international survivors. She claimed that because of this "there was a big divide between British survivors and those that were not British" in that safe house:

*Eve: I think the first time I was ever called British was when I went into the NRM. So, errrrr, in terms of race, because I am British born, I am not white British. Does that make sense? They would see it as the fact that you've got entitlements, which you have, you've got benefits and you've got entitlements to housing and you've got your National Insurance Number, you've got entitlement to work, so, therefore, they wanna move you on very quickly, so that, that's-that's how it felt like anyway.*

*PI: So, they really stuck to less than 45 days.*

*Eve: They made a joke about, because if, because we can speak the language as well, we can speak English, we would be able to kind of challenge things. That wasn't right, so...They'd see it as bit more of a challenge.*

*PI: How did you feel about them putting a time limit on their support to you not based on your needs, not based on your trauma, not based on injuries or experience, but just on your nationality?*

*Eve: I think, because, I had friends in there and so after 45 days, you've got your conclusive grounds, you have to go, you can apply for housing to council, errrrr, you can, you've got to go. But then I've got friends in there that got in the NRM for 2 years, waiting for their decision and Leave to Remain. And although that must be stressful, but then, they still have the support and counselling and a safe place. So, it felt a little bit unfair.*

As a result, "British survivors are sometimes overlooked", Eve concluded and called for more thorough checks and assessment of the organisations subcontracted by the main contract-holder, meaning Salvation Army.



Eve commented negatively on the post-NRM period too: “you’re only in the NRM for 45 days as a British person. Once I’ve got my conclusive grounds, they let you, they said I need to go and they suggested that I go to [...] a hostel for young people”. She elaborated on the reasons why she did not wish to be moved there:

*Eve: ...because there were people who would do substance misuse and-and you knew that it wouldn't be...*

*PI: Not the right place for you.*

*Eve: Yeah. Because if things were to get stolen, there'd be fights and [...] also because I needed surgery down below...*

Yet, after her positive conclusive ground decision she still had ongoing medical needs:

*So, when I got out of the NRM, errrrr, because I needed surgery they, there was only 3 after care provisions in England, that there was 1-bed, there was 3-bed and I think there was one with 5 beds. I was taken to the one with 3 beds and the purpose of that would have been, so that I can get treatment for, like, STDs, treatment for the surgeries I needed within a year and that was run by a religious organisation.*

She was eventually accommodated in a care provision house in England run by a charity with a strong religious character, whilst still attending NHS appointments for surgeries in her genitalia area. As she recounted, the organisation “was run by people that wanted to do good, but they didn’t really understand what they were doing”, while the strong religious character of the organisation did not prove to be helpful with every survivor:

*The girls needed support, we all needed support, but it wasn't there. And that, it was really easy to go back to the traffickers, but it was also easy for the girls to recruit more trafficked, cause they didn't really understand the concept of what trafficking was and there was a lot of religious pressure to conform. Like, God will heal you and just pray about it and if you don't-if you're not, errrrr, used to that or used to go into church, it felt like, oh this is why you're not healed. So, I guess that the intention was good, but it had to be a bit more trauma-informed and understanding.*

Eve revealed that “within a year, that closed down, because of funding” and because of the said unsuitability and lack of expertise. Eve elaborated more on what happened to the residents after the charity-run accommodation closed down:

*...there was a girl with substance misuse, there was another girl that had sort of different medical needs and their volunteers couldn't sustain us, they couldn't run it. So, we got told that that was closing down and we needed to move. Two of the girls went back to their traffickers and then, errrrr, yeah...[pause] I moved into shared accommodation...*

While reflecting on NRM timeframes and despite her initially explaining why she was never re-trafficked, Eve eventually admitted that she relapsed and returned to her traffickers after the NRM, declining, though, to elaborate more:

*PI: Do you think that the Government, as part of their response, should be extending the support they give past these first 45 days? What do you think?*

*Eve: Yeah, definitely. Because people get re-trafficked...*

*PI: Like these two girls that shared the room with you. They got re-trafficked, didn't they?*

*Eve: Yeah.*

*PI: What prevented you from getting re-trafficked?*

*Eve: I think...I was desperate to work...I wasn't on substances, so I knew that, I would do anything, but, I didn't care if I ended up dead, but I wouldn't wanna go back to my traffickers. And not that they wanted to, but that was the only way out. So, yeah...*

*PI: So, what made it different to you though? Sort of similar situation, but they went back and you didn't. Was there anything that helped you?*

*Eve: I had my stay. So, one of them was waiting for her decision to be made, so she couldn't work and the other one was using sort of heroin. And that was quite difficult, because the staff didn't know how to deal with that. So, we would often have to, like, help her when she was...*

*PI: Have you ever been back to your traffickers?*

*Eve: Yeah. After the NRM. Errrrr, I don't wanna say.*

As for the decision-making process of the pre-reforms system, Eve admitted she would be curious to find out more about how decision-makers reached their decision, as it was a judgment passed without anyone ever interviewing her face-to-face:

*PI: Did you have an interview at all, face-to-face interview?*

*Eve: Not a face-to-face interview. There was, like, a statement that you gave and then they do those checks, I don't know what those checks are, but then they give you a conclusive grounds, but it's made by the Home Office, which wasn't really relevant, because I never had any dealings with them. Errrrr, once you get your conclusive grounds, it was said that that then, it would give you access to support. But that support doesn't exist.*

Finally, Eve made an interesting statement, when asked about whether she feels “rescued” after completing the NRM process:

*PI: What do you think about the notion of ‘rescue’? You know, you’ve been rescued. That’s it, isn’t it? You’ve been rescued?*

*Eve: I think that’s often celebrated, so, like, the statistics often celebrate that ‘oh, someone’s rescued from a nail bar, someone’s rescued from a car wash’, but that person hasn’t been rescued from the barriers that are about to come. Like, getting work, explaining to the employer why they were absent from employment, medical support or help...*

When asked to provide feedback and suggestions for improvement, Eve admitted she is “grateful, because I’m still alive”. She felt grateful to the Salvation Army for advocating on her behalf when she “ran away” from the subcontracted safe house. Still, she called for subcontracted safe houses and organisations “to be regulated more”, as currently they “are not checked regularly...[and] safe houses often paint a very nice picture to the Salvation Army, but it’s not always that great”. When asked if the NRM helped her, she answered:

*It helped me in terms of getting me out of the situation and found me somewhere to stay. [...] In terms of where it failed, is that no person that has been trafficked can all of a sudden function and reintegrate into society after 45 days, errrrr, and British survivors are sometimes overlooked, because, yes we’ve got access to benefits and access to housing, but it doesn’t mean that the trauma is less.*

Finally, she supported a “multi-agency approach and [a system] not [run] by the Home Office”:

*Eve: So, it needs to be done by the police, medical services, social services, NGOs and immigration, but it needs to be a multi-agency approach, as opposed to one person reading your file and making that decision. I think the support after it as well, should be statutory, because the local authority will say once you're 18, once you've got capacity, I don't have a duty to care, to support you. And that support is almost seen as a burden for services, but that support is simple things, like getting back to employment or getting some counselling. And a lot of the counselling services, there's not any sort of tailored risk assessment or needs assessment that's been tailored for trafficking.*

*PI: What about the time, these 45 days for British people?*

*Eve: I think, if you have been trafficked for 5 years, 10 years, 15 years, you can't unpick it within 6 weeks. [...] Some of the women have children. So, I think, in a way, although the Government says that they care, is...lip service. But it's also, yeah, you need more support and that would, in the long run, if the exit services worked together...So, it's almost like a postcode lottery. If I was in [a different English city] now and not [in her current area of residence], I would have got that support from a service that is up there. So, all the services are disjointed. So, it depends on where you are in the country [...] So, there's an organisation that offered, I think it's up to 6 months after the NRM. But in [Eve's area] there's not any services.*

### **9.3 Analysis of Eve's Account**

This section will briefly analyse Eve's account, pinpointing the main themes by making connections to literature or other findings, before the broader discussion of findings in chapter 10. Eve's victimisation started from a very young age (13), which means that during her first engagement with her traffickers, Eve had diminished capacity and therefore a reduced choice. The means Eve's traffickers' used, the grooming process, along with her young age, neighbourhood setting and subsequent vulnerability, when seen through the Palermo Protocol lens, fit the concept of “abuse of power or of a position of vulnerability or of the giving or

receiving of payments or benefits to achieve the consent of a person having control over another person” and potentially the concept of deception.

Analysing the factors driving her lifestyle, Eve grew up in a deprived neighbourhood, where chances for legitimate employment would be scarce and probably in the form of low-paid jobs. These correspond to Europol’s (2016) push factors of poverty and unemployment. Simultaneously, the promise for easy money through prostitution and the pull/facilitating factor of proximity of location with her traffickers and clients and common ethnicity with some of them (mainly clients), influenced her pathway and life choices. The same can be said about some examples used by practitioners earlier, where again, poverty, unemployment and future prospects promised through trafficking constituting an improvement to victims’ past life were crucial, whilst the policy-based analysis in chapter 5 also revealed that common ethnicity/nationality is a key factor behind trafficking. These push, pull and facilitating factors correspond to Europol’s (2016) classification of drivers behind trafficking, shaping people’s vulnerabilities, available life options, paths and influencing their choices, transforming them into trafficking victims in need of support.

Beyond this recruiting phase, Eve’s traffickers, throughout the trafficking period, used means such as coercion, threats, physical and psychological violence, confirming Doherty and Morley (2016), who pinpointed that many traffickers operate various means to instil fear upon victims and establish control over them. Some facts, including how traffickers were watching the girls to see whether they would engage in sex, the exclusive use of phone devices and SIM cards given by traffickers to victims, the engagement with drugs or the practice of stalking family members undoubtedly show some level of sophistication and organisation for these traffickers, although there is a lack of more details given by Eve. Still, the main trafficker’s legal business (small private company), the fact that the whole recruitment took place in a neighbourhood/local area or Eve’s reference to how some clients were looked after because they were prominent members of the community (probably meaning a local ethnic community) show a lower, more local level of organisation rather than a national or transnational character for these perpetrators. Thus, the profile of Eve’s traffickers seems to partly align with UK policies, which despite concentrating primarily on organised transnational criminals, still recognised the existence of less organised, low-level, domestic traffickers. However, it contradicts the Home Office’s (2017c: 33-34) Modern Slavery Typology notion that sex trafficking takes place by low-level traffickers only if it aims to their “personal gratification”, since Eve’s case potentially illustrates yet another grey area, namely that of a domestic sex trafficking victim exploited by

seemingly less organised traffickers, probably of both British and non-British nationality, not for their personal gratification, but for a somewhat wider, albeit still local-based clientele. This pinpoints the existence of more grey trafficking areas than the UK policies have captured and the need for policies to be even more inclusive concerning the varying forms of human trafficking.

The main issue which contributed to Eve's misidentification for 10 years was her very identity. Eve was a female victim of sex trafficking, which definitely fits a rather dominant stereotype. Yet, she was a domestic victim. This detail proved to be an obstacle for her identification, which subsequently took 10 years to materialise, despite her occasional encountering or involvement with police or other support services.

Furthermore, Eve's difficulty to self-identify as a trafficking survivor was partly due to her wrong misconceptions revolving around how trafficking can only take place on a transnational and not domestic level. This was also observed to an extent in UK policies, which, as seen in chapter 5, often focused on what Sharapov (2017: 99-100) calls the "victimised Other", meaning a usually foreign and heavily traumatised person, moved across borders to be exploited by traffickers. Moreover, Eve always viewed her engagement as her choice rather than the result of exploitation of her vulnerability. This aligns with Meeteren and Hiah's (2019) research on labour trafficking victims who did not self-identify as such, due to them seeing their exploitative work status as something they chose and an improvement to their past lives.

Eve's misconceptions had been also fed by practitioners, since she mentioned that the same misconceptions on trafficking were shared by people she talked to. This aligns with my interview findings in chapter 6, where professionals focused almost exclusively on foreign origin countries. Additionally, police frequently treated Eve as a sex worker, who freely chose this "lifestyle", often based on the inconsistencies in her accounts. Malloch (2016) emphasised this practice of wrongly viewing survivors through a criminal lens. Eve's case illustrates how -at times- traumatised victims can be inconsistent when giving their accounts, not because their story is fabricated, but because of fear, panic and mistrust towards authorities (Levenson, 2017).

Therefore, Eve faced disbelief by police regarding her status as a trafficking victim, for reasons unrelated to trafficking's definition, such as the element of choice/consent. This idea goes against the *Palermo Protocol* and UK trafficking definitions, which, as seen in chapter 2, do not focus on victim's consent, but on vulnerability instead. Therefore, a person would not be a

victim, only if they fully and freely consented, without having vulnerabilities that were taken advantage of by traffickers (Martinelli, 2015). Evidently, police officers in Eve's case were unaware of what trafficking is, narrowing down the definition to include only pure, blameless passive and visibly traumatised victim figures, similar to the ones often promoted by UK policy papers, as noted in chapter 5. It is worth mentioning that none of the officers I interviewed had such misconceptions, which can be attributed to better awareness now, compared to a few years before or to low awareness of that specific English police force that dealt with Eve. Simultaneously, it could also be attributed to the fact that all the officers I interviewed were specialised in slavery/trafficking, confirming the UK governmental official's view that we cannot "...expect people investigating cigarette smuggling or drug trafficking one day to just turn to a different commodity, which is people...". Moreover, police focused wrongly on Eve's common ethnicity with her traffickers, which to them made her not fit the "narrative" of the average trafficking victim. This interesting choice of the word "narrative" suggests that potentially officers had certain stereotypical trafficking situations in mind, contravening Europol (2016), who places *common ethnicity* as a facilitating factor increasing vulnerability and trafficking risk.

Eve's personal resilience also impeded her identification. This ties to earlier findings on the identity of victims and how policies promote the image of a heavily traumatised victim, who manages to overcome his/her trauma solely with the help of the "anti-trafficking rescue industry" (Sharapov, 2017: 94; Agustin, 2007). This was also evidenced in many practitioners' interviews. Most said that victims have encountered heavily traumatic experiences and are consequently rather fragile. It is worth clarifying that nobody is questioning the level of trauma inflicted on a victim, which however varies. Also, a survivor might be coping better than another victim, despite the fact that both might have been through similar traumatic experiences and might be receiving similar support. After all, as Scottish support providing NGO Manager 1 stated: "For recovery, if you're asking how long it would take somebody to recover from the trafficking experience, I would say as long as a piece of string. Could it be this much for you, could it be this much for me. It's different."

A classic example of how victim-related stereotypes may affect the process of a criminal case is the 1986 Ealing vicarage burglary and rape case, which serves as a good example on common misconceptions around trauma. John Leonard, the judge for this case, gave the gang leader a much longer sentence compared to his two partners who committed both the burglary and the rape, despite him only being involved in the burglary, basing his decision on the strength and resilience the victim had shown: "Because I have been told the trauma suffered by the victim

was not so great, I shall take a lenient course with you". Some victims might show increased resilience compared to others, despite suffering similar traumas. This may be due to better personal coping and adaptation mechanisms, better support mechanisms or environments, including psychological support, counselling, family or friends (Frieze, Hymer and Greenberg, 1987: 304). As seen in chapter 3, trauma can be experienced or expressed differently among people, while resilience relates to personality traits (Agaibi and Wilson, 2005: 196) or even to that person's environment and its "capacity to facilitate growth" (Ungar, 2013: 262). Nonetheless, the common misconceptions around trauma, the stereotypes surrounding how a victim is expected to behave and the fact that some recover faster than others, can often lead to wrong assumptions about the level of trauma inflicted on an individual. Bottoms (2010), discussing Victim Impact Statements, illustrated the opposite, meaning how a more eloquent victim can dramatise his/her trauma in a more convincing way, influencing trial accordingly, compared to an equally or more heavily traumatised victim, who cannot express themselves vividly enough in words. Consequently, we may often assess trauma to be lighter for the latter, even though it may be as deep or even deeper compared to the former.

Additionally, Eve was referred to services unrelated to her status (e.g. services for domestic abuse victims) again underlining the misidentification/awareness issues and disorganisation of the UK's anti-trafficking response. Further, Eve was dismissed from the above unrelated service because she "was too much of a risk" for others, meaning that these agencies were afraid she would recruit others as prostitutes. This reads as a rather traumatising label attached to Eve, who was seen as a potential risk factor for other service users.

When finally referred to the NRM, her experience there indicates a series of weaknesses regarding how the Mechanism operated before the reforms. Eve showcased a lack of sensitivity on behalf of the NHS, which allegedly failed to combine the medical care with the necessary care and respect for her particular psychological needs, mental health condition and gender.

The counselling services seemingly operated in a "one-size-fits-all" rushed way, not fostering an environment of safety and trust, failing to establish good rapport between Eve and her caseworker, resulting into her feeling alienated, unable to open up and effectively helpless. The NHS (2017) and Levenson (2017), analysing the effects of psychological trauma and how to deal with it, mention that key elements of trauma-informed care include safety, collaboration and trust between support worker and service user. Erikson (1993) emphasises the need for trust to be built between the caretaker and the client for a successful healing process. As Levenson



(2017) shows, service users often show mistrust and scepticism towards professionals and authorities and therefore workers should be able to take their time when working with a heavily traumatised person, adjusting their pace to the individual and tailoring services to them. According to Eve, the NRM failed to achieve these, instead providing a limited and rigid framework of counselling services.

This practice not only negatively affects victims' road to healing and reintegration, but also the criminal justice system's goals of securing more convictions. As seen in chapter 8 and as confirmed by Eve's account, the NRM's supportive framework seems to be failing in both the primary goal of building trust and healing trauma, as well as the secondary goal of securing the victim's testimony and help in prosecuting. The "easy way of prosecuting", as the UK NGO worker 1 stated in chapter 8, is victimless prosecutions. Still, as English officer 1 said in chapter 8, half of the good evidence lies with the victim's testimony. Yet, the NRM seems to neglect that reality with its poorly organised supportive framework, which not only affects survivors, but simultaneously comes back to haunt the UK's anti-trafficking efforts.

Regarding victims' origin and how that influences the NRM process, the statistics presented in chapter 1 (Tables 1 and 2) showed that UK/EU referred individuals receive more positive conclusive decisions and face fewer delays than non-UK/EU ones, with Craig (2017) claiming there is favouritism towards the former. According to chapter 7 findings, a divide was noted between interviewees (mostly NGO-related) who agreed or were concerned with this notion of favouritism and those (mostly law enforcement-related) who emphasised more practical reasons behind these discrepancies, including the difficulty in obtaining reliable data for international potential victims. Yet, Eve gives a different account, claiming that British victims were treated worse, often being neglected, left to their own fate or dismissed early from the NRM, allegedly because it is easier for them to claim benefits compared to non-UK survivors. This could be a huge obstacle for the reintegration of domestic victims, who might not face a language barrier or experience victimisation in a foreign country, but might still be facing shame and exclusion from their family, thus requiring care and attention. In fact, well within the reflective period, Eve was transferred to another safe house, "which wasn't for survivors, but [...] for people with life-controlling issues, like eating disorders, self-harm", highlighting the non-tailored, superficial way the NRM deals with UK victims, founded on the wrong assumption that they require less assistance due to their seemingly easier access to UK benefits.

The above clash with the findings in chapter 7 regarding the delays international victims face, which subsequently place them in *limbo*. Eve illustrates that this limbo, despite putting individuals on hold indefinitely, as Rotter (2010) also identified when studying asylum seekers, has the positive side of extending the support this person receives until the issuance of their final conclusive decision, something confirmed by many NGO-related interviewees, who admitted going further than the NRM time frames when providing support.

Regarding decision-making, Eve's wondering of how authorities decided over her case without having interviewed her in depth seems to go against what worker 4 from a support-providing Scottish NGO said in chapter 8, when describing how certain Home Office interviewers could be quite interrogative, aiming for inconsistencies and showing disbelief towards the victim. Apparently, Eve was not interviewed at all, something we can speculate happened due to her domestic status, a finding which again shows how differently victims are treated based on origin.

Moving on to the post-NRM period, Eve painted a picture of sketchiness and fragmentation. Victims end up with little help, often provided by unskilled individuals. The charity organisation that hosted Eve not only lacked specialisation in trafficking, but also closed down, leaving her and other residents without shelter and further care. This highlights the precariousness of relying on organisations that are non-specialised and quite unstable in terms of funding, illustrating a deeper systemic problem of disorganisation and fragmentation for the NRM. This badly designed move-on period resulted in Eve and two co-residents being re-trafficked.

In summary, Eve's account tends to coincide with many NGO practitioners' views about how several victims *cliff-drop* from services due to cracks and holes in the NRM process or the move-on period, which effectively means that the Mechanism seemingly fails to cover victims' long-term needs. All the above allegedly show not only how short and poorly designed the recovery period is, but also how abruptly the NRM support finishes and how badly organised the move-on period is, especially before the reforms, leaving many victims unprotected and vulnerable to be re-trafficked. Eve's story aligns with Kara (2011) or Hoyle, Bosworth and Dempsey (2011) who found that temporarily interrupting the trafficking situation by identifying a victim and referring them to relevant services, does not suffice for them to ultimately escape, if the deep-rooted drivers, as identified by Europol (2016), which created the status of vulnerability and contributed to victimisation, are not addressed in depth with a long-term strategic plan that tackles these victims' "continued vulnerability" (Surtees and de Kerchove, 2014: 65). This can result "in one or more instances of re-trafficking" (Kara, 2011: 68), as happened with Eve and

two other survivors Eve encountered, confirming HTF's (2016: 2) view that the NRM is "a system that finds victims, only to abandon them". This again stems from the notion of recovering from trauma, which cannot simply be achieved within the NRM's short recovery period, but only through a holistic reintegration plan tailored to each survivor, centred on medical and psychological help, employment, ongoing attention and support.

Finally, Eve suggested the participation and collaboration of agencies such as police, NGOs, local authorities/social services, NHS and immigration in a system where support is statutory (and not a "burden for services"), tailored to the specific needs of each person, as well as holistic, covering the medical, psychological and employment-related aspects, thus preventing a survivor from cliff-dropping. Eve was rather concerned about the *postcode lottery* phenomenon identified before, where a victim's fate often depends on the services available in the location they were identified in. Eve mentioned an organisation offering a 6-month post-NRM support service, which however is only available in certain parts of England. This is a key finding for the NRM's operation, since a lot of aspects ranging from training, awareness and operation of first responders to the NRM support offered and the post-NRM period often rely on the victim's location and where he/she is identified. Using Mulvey's (2015) framework, the NRM, following the UK's fragmented structure caused by the contrast of reserved/devolved issues and amalgamated/non-amalgamated police forces, is also fragmented itself, essentially non-amalgamated and operating very differently across Britain, despite it being a UK-wide Mechanism. This impacts on a range of devolved issues (e.g. medical services/NHS, policing) which have to be taken care of by the devolved governments, thus resulting in further fragmentation of the Mechanism's operation. This is a factor behind many of the NRM's failures and will be further examined in Discussion.

# Chapter 10

## Discussion

### 10.1 Introduction

This chapter will discuss the policy and interview findings on the images of the victim and the trafficker and on the UK goals regarding trafficking, followed by a discussion of the NRM-related findings. Emphasis will be placed on the various polarisations noted mainly between NGO and law enforcement interviewees, while I will also examine the structural differences between Westminster and the Scottish Government on trafficking and whether they justify an independent Scottish NRM. Finally, I will reflect on the broader theoretical implications of this research for the trafficking literature, emphasising the need to combine idealism/humanitarianism, which calls for more victim support, with state-centred realism and the conflicting duties states have to fulfil when regulating trafficking. The thesis will conclude with reflections on the project's limitations and the need for future research, with some limitations already touched in chapter 4, including the lack of more interviews with victims and practitioners and the need for a broader comparative study on other European NRMs.

### 10.2 Discussion on the Images of the Victim and the Trafficker

#### *i) Policy findings*

Findings evidenced that the dominant narrative of policies revolved around the *idealisation* of trafficking victims and *demonisation* of traffickers, largely affirming Wilson and O'Brien (2016), who identified that stories of perfect victims are promoted in policies, shaping our trafficking understanding. Yet, a slowly growing tendency to start recognising trafficking's grey areas, such as the varying levels of victims' prior knowledge/consent, various trafficking experiences, the

range of traffickers' organisation levels, the domestic side of trafficking in the UK and much less the frequent fluidity between victims-traffickers was identified, mainly in Westminster policies and less in Scottish and Northern Irish ones.

Christie's (1986) six key characteristics of the ideal victim, given in chapter 3, are found in UK policies, in accordance with O'Brien's (2013) observations that we often have a wrong perception of the average trafficking victim as weak and innocent. Firstly, the victim was often portrayed as weak, helpless and left with no choice than to follow the trafficker. Secondly, the concept of the victim's respectability was evident in UK policies: the victim was trying to escape poverty or responding to an advert for legitimate work or even willingly wanted to work as a prostitute, but had agreed to favourable terms which were violated. Thus, the image of the victim not knowing/suspecting or consenting to victimisation, tricked by traffickers whilst looking for legitimate, respectable employment is dominant in policy discourse. Even when policies admitted that victims knew, suspected or had consented (e.g. to prostitution), the presented traffickers' methods, such as coercion, force, threats or deception, reinforce victims' weakness, washing off any blame they might have regarding their fate. Therefore, the third characteristic in Christie's typology, that victims could not be blamed for their victimisation, is also fulfilled. After all, how can a person, who was forced, coerced, abducted or deceived and tricked regarding employment conditions, be blamed? The emphasis on traffickers' means and organised criminality cover the fourth characteristic, meaning that traffickers are portrayed as "big" and "bad" (Christie, 1986: 19). Fifth, limited reference was made to the prior relationship between victims and recruiters, with this part of the story usually left blank in policies. Sixth, the victims' quotes praising professional advocacy services give victims the voice they need to be heard and claim the ideal victim status. However the portrayal of the trafficking experience as purely negative, orchestrated by the ruthless, monetary-driven, organised trafficker reinforces victims' overall passivity (Van Dijk, 2009). In keeping with Christie's (1986) notion of the ideal victim, policies suggest that victims have a voice and a desire to become strong and independent, but they did not have these attributes during victimisation to the extent that would have made them strong enough to have had an alternative to victimisation. The references (especially in the Scottish context) of professional services supporting victims, serving as the catalysts for their successful reintegration, reinforce that victims gained a strong voice through these services, which they did not have during the trafficking experience.

Contrastingly, policies mainly presented traffickers as ideal offenders and the alter egos of the ideal trafficking victims (Christie, 1986). Portrayed predominantly as cunning, deceptive,

manipulating, clever and usually organised and ruthless, they blackmail, groom, use force, coercion or threats creating fear in victims, despite the general consensus that we know very little about them. Clouded in a mystery reinforced by the few successes of the criminal justice system, which leaves them in the dark, traffickers remain forever elusive from police operations, with an identity more or less concealed. Yet, somehow, policies are certain that they are predominantly organised and transnational. This feeling of them being largely unknown to society reinforces the uncertainty around them, distancing them from us as moral panics theorists would suggest (Cohen, 2002; Hall, 1978). So, it is easier to demonise them and imagine them as inherently malicious, criminal outcasts different to our respectable law-abiding society, reinforcing, as Sharapov (2017) said, the image of trafficking as a standalone organised criminal phenomenon that can be eliminated with a coordinated policing approach. The lack of reference to Europol's (2016) broader push/pull factors and structural drivers fuelling trafficking, such as war, poverty or unemployment, which influence not only victims' pathways, but also traffickers' choices regarding their engagement with criminality, confirm what Sharapov (2017) said about trafficking seen in a vacuum, almost as an isolated criminal activity of organised, ruthless, insatiable, monetary-driven traffickers, inherently different to the average British society.

Still, Sharapov (2017), centred on early-2010s policies, supported that both victims and traffickers were presented as foreign, so that a tougher immigration agenda is supported. I partly confirm his findings, since, as noted in chapter 5, the above dipoles are fused with a better understanding of the full trafficking spectrum, with mainly Westminster policies slowly starting to recognise that both actors can be domestic, traffickers can be low-level, while some victims may have consented to exploitation. Therefore, a slowly growing change in descriptions was noted compared to the policies reviewed by Sharapov (2017), in accordance with literature, which -more keenly than policies- has long advocated that traffickers range from organised to families, friends or unaware recruiters (Feingold, 2005; Molland, 2012; Jacobsen and Skilbrei, 2010; Surtees, 2008; Vocks and Nijboer, 2000). Further, as seen in chapter 3, human rights are not limitless and restrictions on rights are necessary prerequisites of true freedom (Scruton, 2017). Nonetheless, under normal and not extreme or conflicting circumstances, international legislation places a duty on states to respect the rights of certain migrating populations (refugees, trafficking survivors) more than others, transforming their migrating freedom from a "bare" right that everyone has, being subjected, though, to immigration control, checks and regulations to a "basic" one, deserving increased protection (Miller, 2014). Consequently, this

policy-based polarisation between pure victims and evil traffickers, still dominant but less evident now than in the early 2010s and with more recognition of the grey trafficking areas, tends to happen mostly for the goal of weeding out individuals posing as survivors from enjoying the NRM benefits, implying that individuals exploiting the NRM are to be excluded, exactly because they lack the basic element of victimhood that makes their freedom to migrate fall back to a bare and no longer basic right. Thus, my argument is that the UK policy idealisation of victims, which is less intense compared to Sharapov's (2017) findings, but still constitutes the dominant narrative, aims to run a tighter NRM rather than a tighter immigration system, especially when considering how policies slowly but increasingly recognise the domestic aspect of trafficking and how the NRM does not yet give any automatic Leave to Remain even with a positive conclusive decision. This does not allow me to fully identify with Sharapov (2017) and his image of the policy-based foreign trafficker promoted to justify increased border control.

Despite the abovementioned increasing admittance that traffickers range regarding origin and organisation level, policies still ignore the broader factors driving their engagement with criminality. Thus, the dominant policy-based narratives of traffickers' demonisation and victims' idealisation, corroborated by a policy-based fixation on victims' expressions of trauma, serve to promote policing methods against traffickers, as Sharapov (2017) also noted. Now, traffickers are mainly outsiders and organised, but contrary to Sharapov's (2017) findings, policies argue that they can also be British or low-level/opportunistic. In turn, this calls not only for more border regulations, international policing and cooperation, as Sharapov (2017) observed, but also for more domestic policing, partnership and sanctioning against this threat. Thus, the "elimination" goal and the tough-on-traffickers approach are justified. All these consolidate the *heroification* of the UK as a long-standing global anti-slavery force, a punitive state against slave drivers/traffickers with a long tradition on abolitionism. Consistently, Westminster was found to be using trafficking policies to promote the intention to eradicate trafficking, a tough law-and-order mentality and the criminal character of traffickers, often invoking the UK's abolitionist tradition, boasting about it and framing their trafficking-related goals in this broader context, as a continuation of the UK's abolitionist legacy. This leads to -what I call- a *pat-on-the-back self-praising heroification*, which, using Snajdr's (2013) analysis on US anti-trafficking policies, Kirkwood's (2019) framework on refugees combined with Broad and Turnbull's (2019) observations on UK trafficking policymaking, takes place to boast about the past, meaning the UK's abolitionist tradition, shape the form of contemporary policies, construct the identity of the UK as a leading anti-trafficking/anti-slavery force and potentially hide systemic weaknesses

(e.g. subsistence allowance reduction, lack of tailored support, blanket post-NRM period). To retain this *world hero status*, the UK stably promotes this tough-on-traffickers approach, focusing on domestic and international policing, as well as border controls. Broad and Turnbull (2019) supported that this tougher stance accompanies the increasing anti-immigration sentiments in Britain. However, as evidenced above, the growing policy-based focus on domestic trafficking and domestic policing does not allow me to fully identify with their observations.

Lastly, Scottish and Northern Irish policies tended to recognise the grey trafficking areas on a slower and smaller basis than Westminster, as seen in chapter 5, still focusing more on foreign victims and organised traffickers. This may explain the low trafficking awareness in Scotland evidenced by some interviewees, the almost complete lack of domestic adult victims and the fewer referrals per 100,000 population compared to England. However, the quote by worker 4 in chapter 7 regarding how Scotland has more Vietnamese victims compared to England and Wales, potentially underlines the qualitative differences on trafficking between nations and how maybe there are less domestic victims in Scotland (and Northern Ireland) simply because the human trafficking phenomenon is unfolded differently there. This might also explain the tendency of these policies to focus more on specific identities of victims and traffickers. Still, both nations tend to fixate on narrower spectrums for victims and traffickers than literature or many interviewees suggested. More details on why Scotland might be following this policy route will be given further below.

## *ii) NGOs vs Law Enforcement*

The interviews revealed several polarisations between participants on various issues. Some interviewees (e.g. mainly those from a support providing Scottish NGO) presented a more idealistic portrayal of victims that did not know, suspect or consent to exploitation/victimisation while others, especially -but not exclusively- those from law enforcement, confirmed the trafficking literature, pinpointing the grey areas surrounding victimisation or victims' prior consent/knowledge. Even when NGO interviewees, in general, discussed the grey areas in victimisation, they shifted their attention to victims' vulnerabilities, which led them to become prey for traffickers, and their subsequent manipulation and traumatisation by perpetrators. Interestingly, the roles changed regarding traffickers. The image of the evil, organised criminal was shared mostly by law enforcement interviewees, with several NGO-related participants



underlining the existence of a range of traffickers and the fluidity between traffickers-victims, sometimes justifying the victims who became traffickers, as evidenced by the interview of Manager 2, who viewed this as a way for survivors to escape exploitation. Looking at Eve's case, her recruitment took place when she was below the age of consent, while even after reaching adulthood, when officers claimed she was now making a lifestyle choice, her consent was not free, but skewed by vulnerabilities including young age, ongoing history of exploitation, poverty, deprived neighbourhood, lack of supportive control mechanisms like school or family, along with the grooming process, use of drugs, threats and violence employed by her traffickers. As noted in chapter 9, Eve's description of her traffickers' level of organisation did not reach enough depth, although we can assume, based on Eve's account, that there was some level of organisation, albeit a more local rather than national or transnational one.

Regarding the NRM and as we will see further below, there was again a conflict of views between participants depending on background, with NGO professionals praising the standalone services, but critiquing how they are offered through the NRM, blaming the immigration-led mindset of the Home Office, sometimes questioning whether trafficking is about immigration at all. Contrastingly, law enforcement professionals usually gave a softer critique, with their comments and suggestions for improvement centred primarily on low awareness, lack of training, the complexities around investigating trafficking or how some individuals who lack the victim status are trying to abuse the NRM and its benefits with the help of solicitors.

The above suggest that interviewees tend to view matters from their own operational perspective. NGO-originated interviewees praised the standalone services, which after all are usually offered by their organisations, advocating for more support, which correlates to their professional values and goals, but also to their interests, since more emphasis on support could mean an increased budget for their organisations. This led them to purify victims, as this justifies their call for more support and emphasis on victims' needs. Becker (1967) discussed how sociologists tend to justify and often "whitewash" the very people they study, which for criminologists tend to be the delinquent and deviant ones. Similarly, many NGO workers might have undergone a similar "whitewash" process for the survivors they support, often justifying them, falling into sympathy with them (Becker, 1967: 241) and casting the blame to other agents and structural inadequacies, targeting the Home Office, which was constantly found under fire for its failings, even when trying to reform the NRM. Contrastingly, law enforcement interviewees viewed matters from a policing perspective, feeling content with how the Mechanism guarantees the security of the victim-witness and the stability it offers regarding

their lives and location, a crucial element for them turning out to be reliable witnesses and sources of information. Simultaneously, these interviewees tended to be more recognising of victimisation's grey areas, but more rigid regarding traffickers, viewing them as organised. Again, Becker (1967: 241) mentioned the classification of police authorities as "superordinate" and delinquents as "subordinate". This police mentality might have led many law enforcement interviewees retain this superordinate role, providing views which might not have done justice to the full spectrum of traffickers.

### **10.3 Discussion on the NRM**

#### *i) The NRM process*

As noted above, findings revealed a polarisation mainly between NGO and law enforcement interviewees on how they viewed the NRM process. The former pinpointed the limited amount of time dedicated to support, the problems around support and accommodation and the failure around increasing victims' trust towards the system, empowering them to become good witnesses. The NRM, many NGO interviewees said, with the lack of tangible benefits extending beyond the recovery period, the precarious immigration status and its bureaucratic, "one-size-fits-all" approach, which neither provides tailored services to victims nor adapts to the needs of complex cases, as seen in Eve's case, only working well with straightforward ones, fails to help numerous victims going through it, with many "cliff-dropping" or being re-trafficked, as happened with Eve and other survivors she encountered. This connects to the broader question the UK NGO worker 2 imagined a victim would ask after finishing the process: "Well, why did I go into that? It didn't really give me anything!". Most interviewees passed on the blame regarding misidentification issues to other agencies, usually praising their organisations. Still, the common finding here was the lack of proper, coordinated training.

The inability of the NRM to work well with complex cases correlates with the policy findings above. How can the NRM be expected to work adequately with blurred cases, when its very foundations laid in policies were largely built around narrowed-down representations of victims and traffickers? Despite the tendency to recognise grey trafficking areas or trafficking's domestic

aspect, the dominant policy-based narrative still revolves around the passive, brutalised, deceived/threatened survivor versus the cunning, violent, ruthless, organised criminal. There needs to be more policy-based focus on trafficking's grey areas for the NRM to work more comfortably with complex slavery/trafficking cases. Surtees and de Kerchove (2014: 65) advocate in favour of an anti-trafficking strategic response consisting of policies that will address not only the trauma inflicted by trafficking, but also the factors that maintain a "continued vulnerability" and foster the necessary conditions for the survivor to be re-trafficked. These factors constantly fuelling trafficking (Kara, 2011) correspond to the deep-rooted drivers Europol (2016) classified to push, pull and facilitating factors.

Contrastingly, law enforcement interviewees viewed positively the stability of accommodation and the starting point for recovery the NRM provides. They appeared more content with the NRM, assessing it grounded on the comparison with other NRMs or legislations. For instance, SOCA agent was content that Scotland had tripled the recovery period compared to the minimum 30-day period enshrined in ECAT. This practice of enforcing minimum standards through international or European legislation aims to achieving *harmonisation* between signatory States, as Letschert and Rijken (2013) illustrate, meaning a minimum level of protection and similar legislative standards across States ratifying an international or European legal instrument. Harmonisation constitutes a key centrifugal power dynamic for the creation of policies, as analysed in chapter 3, embedded in International Relations liberalism. Nonetheless, 30, 45 or even 90 days of support are not enough for a person with heavy trauma, as how one copes with trauma varies among people (Agaibi and Wilson, 2005), something also underlined by Manager 1 in chapter 8. Despite the OSCE's intentions, the *Trafficking Convention* leaves room for Member-States to interpret regulations as strictly or loosely as they want. Bearing in mind that states usually act with Realism for their own interest, it is obvious they were going to interpret the Convention (and any legal instrument really) in a way that benefits them the most and places the least restrictions and obligations on them. One could argue that Westminster did exactly that with the NRM.

This conflict of views between interviewees based on their different professional backgrounds, analysed in the previous section, arguably reflects the one identified by Carens (1996: 161) between the attempt to "overload" and "place greater moral demands" on the state and the somewhat more grounded, realistic viewing of trafficking ethics, which assesses the NRM in a more relative way, comparing it to legislated minimum standards and other Mechanisms. Still, even adopting this more grounded viewing, the NRM, the policies and the legislation largely fail

to empower victims to regain their voice, overcome their trauma, trust authorities and testify as witnesses, bringing traffickers to justice.

Nonetheless, as English officer 2 mentioned in chapter 6, “the British judicial system isn’t particularly victim-friendly”. This agrees with literature on criminal justice systems, which underlines a range of experiences for victims. Pemberton, Aarten and Mulder (2019) discussed that victims, after engaging with criminal justice systems, may feel support, closure and comfort or experience secondary victimisation, caused by them not being heard in trials or by having to conform to a certain image during trial, in order to appeal to the judge or jury and “receive a sympathetic reaction to their ordeal” (Pemberton, Aarten and Mulder, 2019: 416). Laxminarayan et al. (2013) also pinpointed this range of victims’ experiences with criminal justice, finding that retribution, fairness and interpersonal treatment were key factors in victims’ satisfaction. Kunst, Popelier and Varekamp (2015: 354) discussed how criminal justice systems often focus less on victims and more on securing convictions against offenders and despite the increase in victims’ procedural rights, they do not pay respect to each victim’s particularities, leaving them further traumatised and dissatisfied. This was underlined in chapter 8 by UK NGO worker 2, who emphasised how the UK does not know how to properly apply the anti-trafficking legislation, whilst there is minimum data on how STPOs/STROs work in practice. This complements the NRM’s weakness to provide tailored, long-term help to victims. Eve’s reflections on the word “rescue” corroborates HTF’s (2016: 2) opinion that the NRM is “a system that finds victims of modern day slavery, only to abandon them” without providing them a “meaningful rehabilitation period” (HTF et al., 2017: 2), at least before the reforms. This relates to Doherty and Morley’s (2016) findings on how the asylum system, which also balances between the conflicting needs of protecting refugees’ rights and maintaining a tight immigration agenda, ends up further traumatising and victimising asylum seekers, because of its efforts to maintain the aforementioned hard balance. Still, the participation of victims in trials, the ability to be heard and exercise their service and procedural rights can increase their satisfaction with criminal proceedings (Kilpatrick, Beatty and Howley, 1998; Herman, 2003), which may also help them deal better with the psychological effects of the crime (Laxminarayan et al., 2013: 141). Thus, there is the need to tailor NRM services to each survivor and to conduct a broader systematic review of how trafficking legislation is applied by the UK criminal justice system, so that the latter can also operate in a tailored way that respects victims’ rights, builds a complete supportive framework and assists victims’ healing and reintegration.

Polarisations were noted on the NRM delays and decision-making discrepancies, with some interviewees viewing it as the result of tightening immigration and others as the result of practical investigative difficulties associated with the cases of international victims. It seems as if the NRM is trying to regulate trafficking by balancing victims' needs with a strong immigration mentality, at least from the Westminster side, evidenced by the fate of the *Modern Slavery (Victim Support) Bill [HL] 2017-19* and its automatic Leave to Remain, which failed to complete its passage through parliament before the end of the session (UK Parliament, 2020a) despite the University of Nottingham's (2019) research on how the Bill's benefits would outweigh its costs. The Bill was re-introduced this parliament session by Lord McColl as *Modern Slavery (Victim Support) Bill [HL] 2019-21* (UK Parliament, 2020b). Still, the scarcity of information for many international cases coupled with the frequent phenomenon of systemic abuse by individuals falsely claiming to be survivors underlined by law enforcement interviewees in Scotland and England, creates a situation where *the UK NRM is abused by both ends*: by Westminster/Home Office, which often prioritises trafficking's immigration aspect and by individuals lacking the victim status, trying to take advantage of the NRM benefits.

The issue of *Modern Slavery (Victim Support) Bill [HL] 2017-19* and its automatic Leave to Remain caused a small polarisation too, with some fearing it will make the UK welcome to traffickers. This brings us to the complex issue of *deterrence* by the method of eliminating a potential pull factor, meaning the friendly immigration policy line allowing trafficking victims to reside for longer or forever in the destination country. The question one has to explore first is whether maintaining a friendlier immigration agenda is a pull factor itself. Europol (2016: 12) recognises that among the trafficking pull factors are those related to the "societal, legal, political and economic context of the destination countries", while the existence of high profits combined with low risks is also a facilitator (Europol, 2016: 13). The opinion of worker 4 was that the UK is already a welcome destination for traffickers, with Scottish Politician 2 stating that traffickers are not pulled by a friendlier-to-victims immigration policy, since this generous practice does not directly reward them. However, that would be the case if traffickers were always the ruthless, money-driven, organised criminals and victims were always just blameless pawns at their disposal. Yet, as established in chapters 5 and 6, there is a frequent fluidity in these actors' identities, a spectrum of trafficking experiences and consequently a variation in the relationship between victims and traffickers, with some individuals possessing both identities and other victims having a contractual agreement with traffickers over their exploitation. Given these findings, a friendlier immigration policy towards victims can potentially be a pull factor

luring the traffickers of these victims, who are more active agents of their fate and more consensual regarding their exploitation, to subsequently choose the UK. This factor combined with a series of Europol's (2016) pull or facilitating factors which the UK also possesses (better employment and living prospects, demand for cheap labour, foreign diaspora communities) can potentially make Britain a more welcome destination for traffickers. Despite the above, the existence of low risks for traffickers constitutes a facilitator for trafficking, which Europol (2016) deems to be more central. This factor, though, as established in findings, cannot be addressed without taking victims on "our side". Thus, an NRM that helps victims heal and reintegrate would actively empower them and motivate them to cooperate with authorities as witnesses. Therefore, a friendlier immigration policy might draw more traffickers in, but it could also frame the efforts to support victims, help them build their trust and faith towards authorities and eventually actively assist the UK's criminal justice goals.

#### *ii) Westminster vs. Scotland*

The above discussion leads us to the differences between Westminster and Scotland, which became evident throughout my research. Looking at the findings, Westminster seems to regulate trafficking using policies that maintain or slightly increase the minimum standards of the international and European legislation (e.g. the 45-day minimum recovery period). However, this approach fails to further safeguard victims' needs/rights and substantially improve their status, with Westminster found to be less giving concerning the services offered. The Home Office administration arguably recognises the conflicting needs of maintaining a tight budget and a strict immigration agenda on one hand and the need to adhere to centrifugal power dynamics shaped by international law, humanitarianism and the increased protection trafficking victims merit on the other, trying to balance between these.

Scotland shifts its agenda more towards the humanitarian side of protecting victims' rights/needs, appearing more supportive and providing more tailored services towards victims' needs, again though being punitive against perpetrators. Scotland has tripled the ECAT minimum recovery period, doubling it compared to England and Wales. There was an overall agreement that Scotland dedicates more time and energy to treat victims, taking advantage of the NRM delays to support survivors throughout this period. Furthermore, interviewees from this nation advocated in favour of a friendlier immigration policy that would allow victims to reside for longer or even permanently in the UK and receive a long-term, in-depth support, gradually

phased out. However, it would be interesting to see if this pro-victims agenda would also be followed if Scotland had its own NRM or the power to regulate its own borders. In other words, maybe Scotland affords this pro-victims stance exactly because the hard decisions regarding borders, immigration and the number of foreign victims that can remain in the country using its benefits are taken by the Home Office. Simultaneously, referrals in Scotland remain low, which means that maybe there is more time and resources available to provide tailored assistance to victims, exactly because of the low number of cases. Still, the approach to trafficking was found by some participants to be sketchy and fragmented, resulting in low awareness (e.g. organisations dealing with homelessness), while a lack of trust towards the NRM, exactly because of its ties to the Home Office and Westminster, was also noted.

What we are therefore experiencing here is an example of culture wars, a conflict of views between Westminster and Scotland not only around trafficking, but also around other underlying broader issues, such as immigration or how to deal with traumatised, vulnerable people. Human trafficking is not just the disputed matter, but also the battlefield, where deeper issues are further debated between Westminster and Scotland, to use Hunter's (1991) framework combined with Jahic and Finckenauer's (2005) observations. Where the two approaches meet is their intention to completely eliminate trafficking.

The above reflect deeper ideological differences between Westminster and Scotland, also pinpointed by worker 4 ("Tory" vs "social liberal"). Commentators have suggested that Scotland traditionally adopts a more progressive, inclusive stance, especially regarding the integration of foreign non-white populations compared to England, making it a friendlier and more welcome nation that reduces the divide between different ethnicities or socioeconomic classes (Hopkins, 2008). It is supported that Scotland has not been affected as much by far-right, xenophobic political currents as England has, following more progressive political lines and policies, while the idea of Scottish Nationalism, as promoted by parties like the SNP, have been welcomed more warmly by non-white populations in Scotland (Hopkins, 2008: 118-119). Hepburn and Rosie (2014: 241) frame this by saying that "Scotland has been vaunted for following a distinctive –and arguably progressive– path on policy issues within the UK". Hamilton (2007: 663) agrees that the central political party in Scotland, the SNP, promotes the concept of a nation "where membership is a legal concept and not one based on ethnic exclusion". Leith (2008: 89) underlines the SNP's practice of labelling both the Conservative and Labour party as "London run or controlled", with Conservatives often accused by the SNP as "anti-Scottish" and more "English". Leith (2008: 90) corroborates the notion of a distinct Scottish Nationalism,

supporting that the SNP places emphasis on Scotland as a stable territory, simultaneously promoting that the concept of who is Scottish should be more inclusive and open. “Scottishness” is consequently broadened as a term compared to the 1970s and has now become “a very open concept” (Leith, 2008: 90).

Additionally, as Hopkins (2008: 119-120) notes, Scotland has taken hold of areas such as social work, education and health, while issues pertaining to migration, borders or homeland security have been reserved for Westminster. This impacts on the relationship between non-white populations, lower socioeconomic classes and migrants with both England and Scotland. The UK has taken hold of the hard tasks related to immigration or asylum seekers exactly because they relate to borders. Thus, it is naturally easier for Scotland to appear friendlier to these groups of people compared to the UK, as Hopkins (2008) observed, exactly because Westminster has the hard job of regulating migratory movements and internal security affairs. Nonetheless, McCollum et al. (2013) found that the general public in Scotland is indeed friendlier to immigration than the rest of the UK, with McCollum, Nowok and Tindal (2014) confirming that, despite how the Scottish public’s stance towards immigration has become more hostile over time. In this line, Wright and Mosca (2009) advocated for a Scottish-based immigration points system following the regional character of immigration policies in Canada or Australia, exactly due to the different attitudes between Westminster, which regulates immigration more restrictively, and Scotland, which favours a more open agenda to strengthen its labour force and grow its population (Coldwell, Lisenkova and Wright, 2011).

Are these two approaches, which bear stark differences, but also strong similarities regarding punitiveness against traffickers, successful in uncovering more trafficking cases, helping victims and increasing criminal justice successes? The answer is mostly no. Both Westminster and Scotland have failed to uncover substantially more trafficking/slavery cases and deliver more prosecutions/convictions despite their intentions, exactly because of how they regulate trafficking and how they shift to the two extremes described above, realism and idealism.

The Westminster approach might be trying to balance between the conflicting needs of helping victims and adhering to duties, such as budget restraints, secure borders and deterrence through a restrictive immigration policy, but the way this is materialised alienates victims, leaving them effectively helpless. Westminster’s choice to sacrifice the victims’ rights/needs aspect of trafficking for a stricter immigration line does not only impact on victims’ chances of recovery and reintegration, but ultimately diminishes the UK’s chances to succeed in the



criminal justice field, since the Westminster approach fails to empower victims, develop their trust towards UK authorities and motivate them to cooperate with authorities.

Contrastingly, Scotland, despite its long-standing friendlier immigration agenda and the more in-depth help it provides to victims, fails too due to the low resources available to Police Scotland, the low awareness which keeps many genuine cases in the dark, its uncoordinated approach between the various agencies involved and its mistrust towards the British NRM. Furthermore, the Scottish Government arguably promotes even narrower descriptions of idealised victims and demonised traffickers than Westminster. To some extent this might be taking place to increase sympathy towards victims and reinforce the choice of the Scottish Government to continue its pro-victims agenda, in line with Sharapov's (2017) argument that the status of victims as traumatised serves to justify their genuine victim identity. To another extent, it might correspond to the qualitatively different way that the trafficking phenomenon unfolds in Scotland compared to the rest of the UK. Nonetheless, this practice further restricts the scope of success for this nation, limiting first responders' understanding of trafficking and impeding the uncovering of more cases. Scottish referrals, especially regarding domestic victims, are thus much lower in relation to Scotland's population and compared to the other three UK nations, due to Scotland's low trafficking awareness. These approaches stem not only from a conflict of viewpoints between a more conservative and a more progressive standpoint, but more broadly from a conflict between a more pragmatic and a more idealistic way of dealing with things, with Westminster being more on the realist's side and Scotland more on the humanitarian moralist's side. The way these two identify with each side is not absolute, since as noted above Westminster promotes the rather unrealistic goal of total trafficking elimination to retain its leading anti-trafficking/anti-slavery status, but bears many similarities nonetheless.

Further, the aforementioned unique operation of the current system of reserved vs. devolved matters led Mulvey (2015: 372) identify that the UK's approach to asylum is neither purely reserved nor purely devolved, following a mixed and rather confusing path characterised by a combination of reserved and devolved responsibilities on matters which can be different to each other, inter-related or even overlapping, "but sometimes paying little cognisance to the transversal nature of policy". Mulvey (2015) gave the example of health and accommodation, which are devolved, yet the central asylum policies still impact on both, resulting in the peculiar phenomenon of devolved institutions having to deal with the results of centralised, reserved policy choices. The same *idiosyncrasies of the British constitutional system* and the unique distribution of power in the UK are noted on trafficking too. Trafficking is an issue pertaining to

immigration and thus reserved. However, trafficking is also connected to victims' human rights/needs and the criminal justice system, issues which are devolved to Scotland, according to the *Scotland Act 1998*. Consequently, trafficking becomes a peculiarly semi-devolved/semi-reserved issue for the UK, which in turn leads to a fragmented approach and setup. Findings suggest a lack of centralised training, creating inconsistency among first responders' practice, thus causing misidentification of victims, such as Eve. The concept of *postcode lottery*, according to which the services a referred individual receives largely depend on the area they were identified in, with survivors sharing similar characteristics enjoying different services if found in different areas, along with a general disorganisation, similar to the one identified by Mulvey (2015) on UK asylum, were also noted. The NRM is UK-wide, working through devolved bodies, whether that is the Scottish Government, the NHS or police. Therefore, the UK NRM affects devolved governments and local authorities, without, though, giving them full power to mitigate its weaknesses, use or shape it according to their wishes, thus implementing a Mechanism tailored to the preferences and characteristics of each nation. The only power these local bodies have is to implement small changes from their own narrow and restricted operational perspective, leading to what Mulvey (2015: 372) called a "marbling of responsibilities...sometimes linking and overlapping", creating inconsistencies for practice (e.g. Eve's example of the organisation providing services she wished to access, available only in a certain part of England), inequities (a victim's experience is different in Scotland than it is in England) and practical obstacles impeding investigations (e.g. the Dungavel example). This is not the best of both worlds, but the worst of both worlds and it clearly reflects on UK referrals, prosecution and conviction rates. With all these in mind, do the above justify the creation of a Scottish NRM?

### *iii) The Scottish NRM*

Firstly, the issue of Scotland's extremely low referrals creates scepticism as to whether a separate Scottish NRM is needed and justified. Still, one could support that based on findings, low referrals are -to an extent- the product of Scottish practitioners' mistrust towards the Home Office's NRM and therefore a Scottish NRM could boost referrals for Scotland, as Scottish professionals would feel more confident referring their cases to it. Even so, the question remains: Is human trafficking an issue that can be devolved to Scotland?

Schedule 5 Pt.II Section B6 of the *Scotland Act 1998* defines that among the issues reserved to the UK is “Nationality; immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens; free movement of persons within the European Economic Area; issue of travel documents”. Contrastingly, the issues of human rights and criminal justice are devolved to Scotland, since the *Scotland Act 1998* mentions only which powers are reserved to Westminster, leaving all other matters devolved to Scotland. Even though human trafficking possesses a human rights dimension and is a criminal justice matter, it is also an issue pertaining to immigration, since it has to do -to an extent- with cases involving non-UK nationals, who migrate to the UK, irrespective of whether survivors fully consented to exploitation or were forced, threatened or deceived. And as established above, immigration is reserved to Westminster.

But even if someone advocated against this, supporting that trafficking is not about immigration, then we still could not have a Scottish NRM. The justification for that is located in the Leave to Remain provision. Since the NRM is a Mechanism that, through the SCA, also decides on whether it will grant conclusively identified non-UK/EU victims with a DLR, then this automatically falls under the UK’s powers as an issue related to “the status and capacity of persons in the United Kingdom who are not British citizens”.

To further deepen the discussion, one could ask: “Then why not have a Scottish NRM, where the deciding Scottish Competent Authority will not be the one deciding over the DLR, but will only deal with the status of the victim as such?” In other words, what if the Scottish NRM issued only the conclusive decisions and then passed on cases with a positive conclusive decision to a UK immigration body to decide on whether the UK would grant Leave to Remain? Even this more moderate scenario would not be feasible. Despite this seemingly smooth distribution of powers, still that Scottish CA would be indirectly deciding on an immigration issue, which evades the list of powers devolved to Scotland. Leave to Remain, the Home Office (2018b, 2020c) states, can only be granted to individuals conclusively identified as victims and when one is appropriate, while this consideration will not be made for those receiving a negative decision. Based on that, two criteria must be fulfilled: the issuance of a positive conclusive decision and the appropriateness of this Leave. But if the Scottish CA in the above example makes a decision over the trafficking status of an individual, it fulfils the first criterion, thus indirectly deciding over the Leave to Remain issue by lifting the first barrier in the road towards it. This would be a violation of the distribution of powers between Westminster and Scotland, with Scotland deciding over the reserved matter of immigration. This violation becomes even

more visible if *Modern Slavery (Victim Support) Bill [HL] 2019-21* becomes an Act, granting an automatic 12-month Leave to Remain to every victim with a positive conclusive decision. Then, the Scottish NRM would decide over a referred individual's case and if it conclusively identified him/her as a victim, it would automatically grant him/her the right to stay in the UK (and not just Scotland) for a year. Again, that would violate the *Scotland Act 1998*, since a Scottish body -and effectively Scotland- would decide over the reserved issue of immigration on "the status and capacity of persons in the United Kingdom who are not British citizens". As a result, a Scottish NRM cannot become reality, as its very existence would *devolve immigration to Scotland through the backdoor* and would therefore violate the *Scotland Act 1998*. The prospect of a Scottish NRM, even though a choice championed by many due to Scotland's different anti-trafficking approach, is unfeasible as it negates two realities: the low number of Scottish referrals and the distribution of power in the UK.

#### *iv) A small step forward?*

Closing this discussion, the UK is characterised by a *structural labyrinth of responsibilities*, where complex semi-devolved/semi-reserved issues, like trafficking or asylum, are caught up in this general constitutional fragmentation of a country that is neither a federal nor a unitary state, but a unique entity composed of four nations. The prospect of a Scottish NRM within the UK was found unrealistic, whilst the aforementioned notion of "Scottishness", coupled with the distinct Scottish Nationalism and the substantially different Scottish approach on trafficking make full centralisation of the NRM hard to achieve. Making human trafficking fully reserved, along with the services provided, is also not feasible due to the devolution of human rights, policing, criminal justice, health and local authorities, which justified the fragmentation in legislation in the first place. The postcode lottery on services will unfortunately remain, as it is fuelled by the very constitutional setting of the UK.

Still, making the training of first responders reserved and having Westminster announce central standards on e-training modules and on who can become a first responder is definitely a move towards improving the NRM, also paying respect to devolution. Centrally training the devolved NHS, for instance, on a reserved issue does not violate devolution. If the NRM is a UK-wide Mechanism and since the latter stages of it are reserved with the existence of centralised CAs/SCA, there is no reason why the first stages of such a Mechanism should not be centrally coordinated as well. Therefore, a key suggestion recognising the UK's particularities, not

violating the distribution of power, and simultaneously unifying practice would be for Westminster to take even more control of the first stages of the NRM, including training, thus setting the standards on who can become a first responder.

#### 10.4 Theoretical Implications

The above discussion, continuing from where chapter 3 left it, has important theoretical implications for the human trafficking literature. Firstly, it confirms that Christie's ideal victim/ideal offender framework finds applications in the dominant narrative of trafficking policies produced by Westminster and the devolved governments, despite the aforementioned growing effort to include more grey areas. Weitzer's (2011) claim that policies maintain a dichotomy between ideal victims and evil traffickers is mostly confirmed. Interviews with several professionals revealed the existence of a spectrum for victims, confirming and enriching Weitzer's (2014) observations, who, focusing on labour exploitation, identified a spectrum between purely deceived and fully consenting victims. Weitzer's (2014) spectrum, which between the two above extremes may contain cases of victims who had not fully understood the extent of exploitation, the risks it entailed or had agreed to an exploitation that eventually escalated further, was found to concern victims of sexual exploitation too. Reflecting on that and making a loose analogy, these cases tend to feel like employment contract violations, similar to what many encounter in legal jobs. Almost as if a store clerk was forced to work overtime, without receiving the equivalent payments from their employer. In particular, Hussein's (2015) notion of a "consensual agreement" and Weitzer's (2014) observations are confirmed, especially in the interviews with Police Scotland, implying that trafficking has a significant grey area in which the trafficker and the victim had agreed on the conditions of exploitation, but these were subsequently violated by the former. This does not amend the nature of "work", which remains prostitution or illegal labour, but abruptly changes the conditions of this "job", further aggravating the exploitation. Combining Molland's (2012) notion of normalisation, we conclude that trafficking is not just about purely deceived victims who had not suspected their exploitation and normalised it eventually or survivors who had consensually agreed to be exploited, but are still victims due to their inherent vulnerabilities. Trafficking can also take the form of a *contracted exploitation gone wrong*, meaning an agreed exploitation, further aggravated by the trafficker and eventually normalised by the survivor. Still, these people are victims due to the

vulnerabilities driving and skewing their consent, which subsequently is no longer free and often not full either.

Despite the polarisation on traffickers' identity, several interviewees revealed a similar spectrum for traffickers ranging from low-level/opportunistic to organised criminals, confirming scholars such as Viuhko (2018) or Feingold (2005) who had long supported that traffickers lack a standard profile and may significantly range. An important contribution to knowledge here came from the interview with English officer 1 in chapter 6, which provided an innovative observation that the term "organised" could be reworked and broadened to include not just professionally organised career criminals, but also lower-level perpetrators, for example families, coming from countries where trafficking practices are almost normalised. These families or low-level individuals/groups might not possess the "sophisticated technology", hierarchy and connections with corrupted officials or use threats and violence, but might simply have loose ties to diaspora communities in destination countries, eventually exploiting their own family members not for high profits, but simply for financial survival and betterment of living conditions. Lastly, UNODC's (2018) findings on the fluidity between victims and traffickers were also confirmed. Overall, it became evident that some victims view the trafficking experience as a *stepping stone*, as an improvement or even as a normal everyday job with a ladder of hierarchy just like in a business company, where good performance is valued as progress and rewarded, while bad performance leads to stagnation and failure to achieve a higher work status. This aligns with Meeteren and Hiah's (2019) observations on labour trafficking victims often viewing their situation not as trafficking, but as a starting point for improvement of their living conditions. This also reinforces Hussein's (2015: 133) scepticism that human trafficking, to an extent, is not an organised crime, but may often be an "individual activity" or a "consensual agreement", which, as my research showed, often contains small violations of the *contracted exploitation* or even promotions from victim to trafficker/recruiter, underlining the frequent fluidity between victims-traffickers. Victims and traffickers may often be related, may know each other before the trafficking incident/period or may even be the same person. This leads to the conclusion that victims and traffickers may sometimes come from the *same pool of vulnerabilities*.

Regarding the NRM, the polarisation between interviewees makes it harder to draw safe conclusions on the matter. Still, combining participants' views, the UK NRM seemingly operates differently than the OSCE model. Their main difference lies in how the OSCE NRM aims to "promote the human rights of trafficked persons", but also "to be effective in securing the victim's human rights and sustainable in the long run" with "patience and long-term commitment"

(OSCE, 2004: 15, 27, 32), promoting long-term specialised services for victims (OSCE, 2004: 77). Contrastingly, the UK NRM, at best, works as a good starting point for victims and investigations, as the positive evaluation of law enforcement interviewees showed, but regarding the OSCE goals of long-term healing and reintegration, the NRM was consistently found to be failing, providing non-tailored, one-size-fits-all services, ending abruptly, leading to “cliff-drops” of victims from services and operating in a fragmented way through a problematic mix of centralised and devolved policies. As worker 4 revealed in chapter 8, the NRM seems to work fine for resilient victims who are strong and independent enough to move forward, but regarding clients who need more support and advocacy, it leaves them unprotected, leading them to “make a mess of their benefits application, mistakes [when] applying for housing, who might end up homeless, who might then end up re-trafficked”. This shows that the NRM arguably fails to break the *vicious circle of vulnerabilities and trafficking victimisation*. Regarding the allegations expressed by scholars and NGOs of racist practices against non-UK/EU victims (Craig, 2017: 23; ATMG, 2013), the practical difficulties in investigating such cases that some interviewees pinpointed cannot be ignored and do not allow me to identify with these allegations. The introduction of the new SCA for all victims, eliminating the divide between CAs based on the victim’s origin country, is undoubtedly a step forward and it remains to be seen how international survivors are treated now. Findings, though, revealed a new shade in the NRM’s problematic operation, namely that domestic victims may also face neglect and be under-supported, sometimes even more than non-UK ones. Eve’s story evidenced how domestic victims tended to get brushed off by authorities and organisations, at least in the pre-reforms NRM, showcasing that the long waiting period for a conclusive decision for foreign victims negatively labelled as *limbo*, which was also identified in the asylum system by Rotter (2010), who emphasised the feelings of hopelessness and disempowerment caused by delays, can have positives too, since this limbo often entails extra support for victims while waiting, a support not given, though, to domestic survivors despite their equally pending needs.

Regarding the critique lodged against the -what I termed- globalised critical criminology in chapter 3, as showed there, this was found to be often restricting itself to heavily moralising judgments on policies and systems such as the NRM, promoting immigration as the sole factor affecting how these work. This thesis, though, through its theoretical analysis and findings showed how trafficking policies are often influenced by a series of factors, such as International Relations currents of thought, conflict of rights, public or media concerns or party ideologies among which immigration is just one driver. This illustrates how the criminological talk on

trafficking and more broadly on immigration can be enriched by a framework combining the academic political idealism and strong sense of humanitarianism that is closely connected to the immigration criminology with a strong sense of realism and understanding of the state's perspective. Inspired by Carens' (1996) realistic morality, we may develop a *Realist's Criminology* or -in other words- an analysis and thinking framework leading towards a *Criminological Moral Realism*. This choice of terminology is the by-product of reworking the term 'left realism' in criminology. Similarly to how the theoretical framework of left realism challenged and addressed the weaknesses of critical criminology on a more local/national level, we are in a position to say that we now need a new theoretical framework of criminological realism with a more international/borders mindset to challenge and address the weaknesses of the globalised critical criminology theories, as those were unpacked in chapter 3. We may keep the word 'realism' in order to emphasise the need for criminology to consider the realities shaped by the exercise of state power, as well as by the concerns of the public, the media or other contrasting ideologies (e.g. political parties' ideologies). Instead of the word 'left', we may use the word 'moral', since, as seen in chapter 3, moralism and realism tend to cut through both the Left and the Right. In this case, the word 'moral' also serves to remind us of the limits of realism, which, again as seen in chapter 3, in its extreme form can slide into cynicism and injustice. Additionally, unlike the term left realism, the term moral realism helps divert attention from the classic dipole between Left-Right, as what matters here is the interplay and combination between the moral and the pragmatic, rather than whether things are viewed more according to a left or a right-wing political orientation.

As seen in chapter 3, Carens (1996) attempted to combine the contrasting notions of realism and moralism/idealism to construct the more balanced framework of "realistic morality", especially in relation to the issue of immigration and how to deal with it. Carens' (1996) goal was to overcome the frequent rigidity of realism to implement more radical changes to unjust policies, practices and institutions on one hand, and the unfeasible expectations of the heavily moralising idealism on the other, especially in relation to how we view or deal with immigration. Thus, Carens (1996: 159, 161) strongly advocated that we should promote feasible changes to immigration policies, which would also somehow benefit the destination state and its members.

Consequently, placing idealistic expectations on states, which might conflict with their broader interests, as Carens (1996: 162) says, would be "unreasonable and foolish". A state can in fact be generous, but this does not mean that this generosity can go on forever or that it cannot be changed, while in fact one must also consider that most often this generosity will be shown by



states, exactly because they feel that this would benefit them eventually (Carens, 1996: 162). A state, therefore, cannot be morally more sympathetic to individuals who are not its citizens than to those who belong under its social membership umbrella. But that does not mean that a state has to be apathetic towards the former or that in all cases it has to completely sacrifice the rights of the former for the sake of the latter. Realism in International Relations is a key driver behind states' decisions, with idealism/liberalism also playing a role, as evidenced by the presentation of the domestic legislation on asylum and trafficking/slavery, which is often influenced by humanitarianist principles and international legislation. The same goes for the tangible public concerns on security and borders, as expressed by a number of interviewees (e.g. those working in law enforcement), as well as the humanitarian concerns expressed by another group of interviewees (e.g. those working in NGOs). Taking Carens' above observations into consideration, these more idealistic policy or legislative choices will be made on the principle of humanitarian generosity, but will also be adopted on the basis that they can produce tangible benefits for the state. There will be, of course, cases where the state will have to resort to extreme solutions, but this will not be the norm and therefore there is no reason why the state cannot offer solutions, even small ones, inspired by moral values such as humanitarianism, which might realistically satisfy its own interests too, as a Realist would agree. An example of that was given above, where it became evident how a more pro-victims approach might actually benefit the UK, as it will strengthen and motivate victims to testify as witnesses, thus potentially increasing the successes of the British criminal justice system.

Carens' (1996) framework of realistic morality justifies for instance the practice of countries, such as U.S.A. or Canada, which accept more refugees compared to other states. As Carens (1996: 159) explained, these countries might still fail to accept all applying asylum seekers or even take their fair share of asylum seekers based on their resources or population, yet they are still doing considerably better compared to the rest, thus aiming for "praise and admiration for their policies". This example shows the principle of realistic morality in practice. These countries still fail by the absolute standards of an idealist. Yet, they are simultaneously doing better on a relative/comparative basis to countries that might be more cynical, harsher and which therefore might hardly accept any refugees, with Carens (1996: 159) providing the example of Japan as a country belonging in the latter category. Therefore, why be negative or extremely critical towards the practices of a state, which is relatively doing better compared to other countries? And this applies mostly to Western states, which as seen in chapter 3, are usually the object of criminologists' critique. Why lodge this "suspicion...over our most brilliant successes [which]

always threatens to degenerate into facile defeatism”, as Bruckner (2010: 33-34) would ask referring to the successes of the West? A *realistically moral* reader would recognise the advancements made in the area and lodge a careful and constructive critique of what could be improved, considering the needs, goals, principles and conflicting duties of the state, rather than turning into a “high priest of defamation”, employing a critique characterised of “self-cannibalism” with a “morose pleasure in annihilating” the relative positive results so painfully achieved by western world democracies (Bruckner, 2010: 34).

Carens (1996) not only criticised pure idealists, but absolute realists too, using the example of American slavery to show how realism can sometimes turn into cynicism or rigidity when implementing changes to the existing status quo. Regarding slavery, Carens (1996) discussed what a realist’s and idealist’s approach would be. The former would advocate in favour of the long history of slavery as an institution, its deep roots to our societal structure, thus proposing minor improvements to how slaves are treated rather than radical structural changes, such as abolition (Carens, 1996). Contrastingly, as Carens (1996) showed, the stance of those, who favoured the abolition and legal damnation of slavery, even though closer to idealism, in the end proved to be successful, providing a crucial answer to a much needed societal change, eventually freeing people from the shackles of slavery.

Inarguably, this thesis concentrated more on how human trafficking is regulated in the UK context. The time, budget and manpower limitations did not allow this work to be extended to a study of the UK public view or even to frameworks outside the UK one and potentially study human trafficking not only in relation to destination states, trafficked populations and destination state citizens, but also to origin states and the situation there, which contributes to the creation of push factors, subsequently fostering vulnerabilities for many foreign victims. Therefore, the suggestions that follow later on in this section, will inevitably concentrate more on the UK, along with its devolved jurisdictions. Nonetheless, these UK-centred findings managed to produce a very significant amount of information and data, which serve to illustrate the need for a shift in our contemporary criminological discourse on trafficking, slavery, asylum and migration. Our criminological thinking needs not to engage in a constant, deconstructive critique of destination states or a replacement of the long-standing concept of crime with terms that bear a different ontological dimension, just to facilitate the above critique. We need to widen our scope and utilise the concepts of crime or harm to examine the broader lived realities and experiences related to complex phenomena, such as trafficking, slavery, exploitation, asylum or immigration. We need to understand that such phenomena, by their very nature, are often or always

transcending and thus exceeding the narrow limits of nation-state borders, influencing and being influenced by a series of factors. Therefore, any criminological discourse on these issues also needs to be globalised and equally transcendental, taking into consideration and studying all these various factors and angles.

Looking at human trafficking, the various interviewees confirmed the multi-faceted and complex character of this phenomenon, which has been pinpointed long ago by Europol's (2016) classification to push, pull and facilitating factors. Any criminological discourse on international human trafficking needs to look at these broader mechanics behind trafficking and examine the issue not only in relation to destination state practices and criminal justice systems. In fact, we need a *chain of causality* when analysing and studying human trafficking, which will list and connect all factors influencing and feeding this phenomenon. This chain will start from the origin states and the situation in these countries. The examination would focus on the higher state level (e.g. government, authorities, criminal justice system), as well as on the societal grassroots and middle institutional level of origin states (e.g. public, media, private organisations) and centre on the specific contextual circumstances which are pushing people outwards (e.g. poverty, war, unemployment, civil or religious conflicts, corrupted authorities, discrimination etc.). It will continue with the people directly involved in the phenomenon, meaning the victims and the traffickers. As seen in chapter 3, left realism placed special emphasis on victims of crime, recognising that working-class crime victimises predominantly working-class people, thus implying that often offenders and victims come from the same class, group or part of the community. Back to trafficking, when examining the link of the chain concerning the victim and the trafficker, we need to do so with a lens that is not skewed by popular stereotypes for both actors and which pays respect to the abovementioned realisation: namely, that victims and traffickers often come from the same or similar pool of vulnerabilities, that trafficking hurts predominantly victims rather than states and that often victims are often engaged knowingly or consensually in trafficking to improve their financial situation or are climbing up the ladder of hierarchy to become traffickers themselves. Following victims and traffickers, the chain of analysis will cross over to transit states and destination states, studying their policies, border regulations and criminal justice systems in relation to the drivers behind their operation: public or media concerns, pressures and awareness of trafficking, political parties and their ideologies, concerns and views expressed by other institutions (e.g. NGOs, law enforcement agencies etc.) or the way states exercise their power (e.g. state realism perspective, international legislation guiding state power, conflict of rights). Similarly to origin

states, destination and transit states would also be examined on both a state level (government, public authorities, criminal justice system etc.), as well as a middle institutional and societal grassroots level (citizens, media, private organisations, companies).

Further, a common weakness of our contemporary criminological discourse on trafficking is the frequent neglecting of the domestic side of human trafficking. Sharapov (2017) did critique the over-emphasis of UK policies on the international side of trafficking, which according to him aimed at demonising traffickers as evil immigrants. Still, Sharapov (2017), following Pirjatanniemi (2019), arguably tended to focus somewhat more on the international side of trafficking himself. In fact, both scholars made use of a series of dipoles between undeserving and deserving migrants or evil traffickers and genuine victims, concentrating more on the study of foreign populations. Malloch (2016) also tended to concentrate on how many victims are wrongly seen as illegal immigrants in the UK, following Jobe's (2010) similar focus on how the UK views trafficking through a criminal law/illegal immigration lens. Building on the above, there is the need to examine domestic trafficking more closely, in a similar way, as proposed above, to foreign traffickers and victims. This exploration could be in relation to the lived realities of victims, as well as traffickers, the structures pushing them to victimhood or criminality, the prospects arising for them through human trafficking compared to their previous lives, the state mechanisms of control and the public's attitudes and awareness of trafficking. Of course, similar chains of causality can be conceptualised for other related phenomena, such as slavery, asylum or immigration. In this case, the examination would focus again on the interplay between the main links constituting the chain for each of these phenomena. These links would be -more or less- similar to those for human trafficking and can be summarised as following: origin states (state and society-level), individual actors, international legislation, transit and destination states (state and society-level).

As mentioned above and despite the important theoretical implications arising on the side of this empirical research and which concern the broader mechanics behind how human trafficking unfolds, this thesis' topic is still mainly centred on the UK context of human trafficking. Thus, returning to this UK framework, a realist would shift their balance towards the need to regulate immigration and secure borders to cut off the entrance of more traffickers and victims, also aiming to achieve more criminal justice successes by arguing that a robust borders system coupled with a punitive approach would deter prospective traffickers and victims. In addition, they would argue that victims are indeed suffering from trauma, had their rights violated and are in need of support, financial or legal aid. But simultaneously, a realist would denounce the way

“saintly individuals” think and instead emphasise the need to maximise the state’s and society’s benefits at all costs, based on the paradigm that the good of the people is the supreme law and goal of the state (Galston, 2010). Therefore, a realist would respect international legislation and the minimum standards set by it, but would not go much further when it comes to helping survivors or would do so, only if it benefited the destination state. For instance, they would increase the protection and support offered, if that improved the status of the destination state in the global scene. On the other hand, a pure idealist/moralist would oppose the above and question whether trafficking is about immigration at all or whether victims should be treated simply as economic migrants. Instead, they would advocate in favour of a humanitarian approach, prioritising victims’ treatment, reintegration and rehabilitation to society, possibly with a generous immigration system. Moved by humanitarian principles and the structural inequalities that usually exist between origin and destination countries, an idealist would potentially hold the destination state accountable for its failure to assist origin countries develop and would consider trafficking/slavery to be a result of the destination country’s indifference towards the problems of origin states. The destination state would be the culprit of a “state harm” towards trafficking survivors, to use Soliman’s (2019) terminology. The punitive criminal justice approach of the destination country, as proposed by realists, could potentially end up criminalising victims too, sweeping them in for their engagement with prostitution, illegal immigration or illegal labour and the destination state would subsequently be accused for “hypercriminalising” blameless figures and creating “suitable enemies”, to use a Wacquantian phrasing, moulding obedient work masses for the neoliberal state, as a Marxist might say or “scapegoats” serving as a cover up for the destination state’s inherent structural weaknesses, to use moral panics discourse. Regarding criminal justice, the aim would be more towards rehabilitation and reintegration of traffickers, who would be seen in a more understanding light, as victims of structural failings for which they are not to be blamed.

However, using Carens’ *realistic morality*, we can construct this *Realist’s Criminology* and view issues from the stance of a *Criminological Moral Realism*. This current of thought will be able to examine issues, such as human trafficking, asylum or immigration, neither from the idealistic/utopian viewpoint of contemporary immigration criminology, which, drawing a parallel with political idealism, is also self-restricted on this “intense commitment to a particular vision of what should happen” (Bull, 2000: 59), nor from the cynical viewpoint of extreme realism; but from the self-centred perspective of all actors involved. A framework, which will try to mitigate and balance conflicting needs, such as humanitarianism with border control and security, not by

asking the same actors to go to idealistic extremes that no one in their position would, but by showing them how small steps towards implementing policies inspired by moral values, can have important gains for their own interests. In the UK's case this could happen by showing how supporting victims or even automatically giving them Leave to Remain, such as the one in *Lord McColl's Bill*, can help the criminal justice system obtain more information and increase its successes. Training authorities or changing the UK policies to recognise the broader spectrum of trafficking might lead to more survivors being uncovered and a better understanding of the drivers behind traffickers' actions, which are shaped by a combination of structural drivers/vulnerabilities and individual choices. Potentially more resources would be needed to be invested to the NRM, but it would also be a way for the UK to consolidate a true leading anti-slavery force status, increasing its efforts and referrals, respecting long-standing academic literature and fighting not just slavery, but predominantly stereotypes built around it. The way to implement feasible changes to a state primarily looking after its own interests would be to show how this state would benefit from a change and a good example of that was the aforementioned call for more victim support based on the paradigm that it would not simply benefit victims, but potentially the state's criminal justice system too.

### **10.5 Limitations and Call for Future Research**

In drawing together the key themes of the thesis and highlighting what I believe to be its main theoretical contribution, the limitations of the research should be borne in mind. As discussed in chapter 4, the case study method conducts a deep, intensive examination of a single unit to draw as much data as possible (Bryman, 2012: 66-68). Still, case studies, as Bryman (2012: 70-71) added are not known for their ability to produce findings that can be generalised to a wider audience, but for their in-depth exploration of this single unit. The fact that Eve was interviewed by proxy and only once poses a significant limitation. As seen in chapter 4, Gomes et al. (2016) suggest that the use of third interviewers may negatively impact on the study's validity. A way to mitigate that risk, Gomes et al. (2016) add, is to select interviewers with a good knowledge of the researched topic. Consequently, the use of an interview guide by the interviewer, containing questions prepared by me, combined with the interviewer's long-standing experience in the field of supporting trafficking victims, along with his/her in-depth knowledge of Eve's case and the already established relationship of trust he/she had with Eve crucially helped to mitigate the

above risk. Thus, the proxy interviewer did miss on a number of probe questions that I would have asked, such as on the topic of traffickers' organisation level, but he/she was in a position to ask a series of other probing questions, which I, as an outsider, could not have considered asking. The proxy interviewer's question on whether Eve felt "rescued" after her engagement with the NRM is a fitting example. Therefore, as I explained in chapter 4 and as evidenced in chapter 9, despite the fact that Eve was interviewed only once and by a third interviewer, her account managed to reach depth, producing powerful findings and helpful data, significantly contributing to this thesis' research and to the final conclusions drawn.

Another limitation stems from the low number of victims interviewed. As seen in chapter 4, Goode (2000) underlined the difficulty to conduct research with "hard-to-access and vulnerable" populations, while Flanagan and Hancock (2010) and Lyberg et al. (2014) promoted the solution of maintaining close ties with organisations related to such populations or even establish connections with the populations itself to gain access (Lavelle, Larsen and Gundersen, 2009). Through networking and approaching NGOs, I only managed to locate one trafficking survivor, who completed the NRM before the reforms. However, as evidenced by statistics, literature, the practitioners' interviews and -to an extent- the UK policies, there is a large range of victims begging further study. Eve's experience could differ to that of another victim with a similar profile as evidenced by the UK's postcode lottery situation, whilst, their experiences could differ to those of other victims with different identity characteristics (e.g. male victims, non-UK victims or victims exploited for other purposes). Therefore, it is worth taking this research and extending it by studying more victims who have gone through the NRM, potentially through more networking and snowball sampling, using NGOs to locate survivors.

Additionally, I believe in the importance of studying individuals who might have the identity of the victim, but for their reasons chose not to go through the NRM. This is a rather sensitive and risky task, meaning that it would be hard to define if they are truly victims, since they never went through the NRM and no official body decided on their status. Therefore, this requires a strong cooperation and relationship of trust with the gatekeeper professional(s), who will be the medium between researcher and individual, and of course a relationship of trust between the researcher/interviewer and the individual, so that the latter can open up about the elements that identify him/her as a victim and about the reasons why he/she chose not to go through the NRM.

Another limitation is the number and range of professionals interviewed. As mentioned earlier, interviewees came only from England and Scotland. What about Wales and Northern Ireland? Northern Ireland has similar issues with Scotland when it comes to low referrals of UK victims, while, as seen, the policies of the DoJ often ignored traffickers. Moreover, despite holding a good number of interviews with a range of practitioners from different services and sectors, I failed to interview some, such as NASS accommodation providers, other key UK NGOs or local authorities operating across Britain, which could also have interesting views for my project. I shall not name such NGOs, so that the organisations I interviewed are not indirectly revealed.

Further, considering the ongoing reforms, more research is also needed on the NRM as this is shaped following the implementation of these reforms, particularly studying the effect of the SCA and of the new move-on support policy (Home Office, 2020c) on the Mechanism's operation.

A common reference among interviewees who viewed the NRM positively was the comparison with other European NRMs. Therefore, future research could focus on other Mechanisms around Europe, adopting a more comparative perspective to examine how the UK NRM stands not only compared to the OSCE NRM model, but also to NRMs as they operate in other OSCE countries. This would give us a good picture of how the UK measures up against a relative and therefore tangible measure of comparison, meaning other European NRMs, and compare the progress, benefits and drawbacks the UK NRM has to its European counterparts.

Moreover, as noted above, I examined the prospect of a Scottish NRM and found this unfeasible from a legal standpoint, as long as Scotland remains part of the UK. However, what if Scotland became independent? Then by definition, Scotland would have its own NRM. How would that NRM look like though? Would it be similar to how Scotland uses the UK NRM now, meaning a Mechanism that takes a pro-victims' needs/rights approach? Or would an independent Scotland, a country that would have to regulate its own borders, take a stance resembling more to Westminster's, balancing between victims' needs, migration control and criminal justice goals? This is a hypothetical question, which cannot be answered now, since Scotland remains in the UK. Still, it is a question worth exploring, should Scotland ever gains its independence in the future.

Finally, in relation to the broader mechanics of trafficking, as pinpointed by the aforementioned chain of causality for international human trafficking, some broader key questions arising would be: What is the situation in origin countries? What causes mass movements of outwards



immigration and trafficking in these countries? If structural conditions in origin countries foster vulnerabilities and criminality, why do some people conform and not engage in trafficking as perpetrators? How can we assess the international trafficking legislation in relation to today's era of mass migration? What is the situation in the interior of destination states, which is potentially feeding on the alleged increased border punitiveness of destination states? What do the destination state citizens think or feel about the phenomena of mass migration, asylum, slavery and trafficking? What images do the media promote? What is the political debate and discourse in destination states regarding these phenomena? What views do law enforcement authorities, NGOs, lawyers, human rights advocates, the judiciary or the prosecution services hold? And finally, building on the first limitations pinpointed in this section, what do the stories and lived experiences of more victims and even traffickers tell us about human trafficking?

## **10.6 Concluding Remarks**

This research studied the UK's anti-trafficking response, examining key policies issued by Westminster and the devolved governments and the NRM. What became evident is how fragmented and divided the UK practice is, especially between Westminster and Scotland. The former adopts a more immigration-led mindset, favouring a standardised, "one-size-fits-all" blanket approach, where the basic legislation requirements as interpreted by the letter of the law are balanced with other state goals, such as the goal/need to regulate migration, appear punitive and maintain this image of the leading global anti-slavery force, while the latter uses the NRM in a more pro-victims' needs/rights way, trying more to tailor services to each victim's needs. I advocated that in both cases an idealisation of victims and demonisation of traffickers is largely promoted, with Scotland choosing this dipole to justify its pro-victims approach and Westminster to further *heroify* Britain.

However, we need to understand that human trafficking is a complex, multi-faceted socio-criminal phenomenon, a multi-dimensional issue that begs a similarly multi-dimensional response, which will look beyond the common Hollywood stereotypes of the innocent, blameless victim and the ruthless organised criminal. It requires an approach that will incorporate the full spectrum and address the problem not just in a tough, 'law and order' way, but in a constructive, well-rounded way that respects the push and pull factors behind it,

considers the diminished choice of many victims forced by broader structural problems and life struggles to follow certain pathways, whilst trying to tackle the structural causes of trafficking with respect to the destination state's interests. The message of this paper, though, is not an idealistic one that forgoes any realistic assessment of the situation and calls for total trafficking and slavery elimination or for an all-in pro-victims approach, disregarding the conflicting duties states have to fulfil. It is safe to say that we might never end human slavery and trafficking. But that does not mean we cannot try to improve our practices, our stance and our policies as much as we can to reduce these phenomena. In the words of Abraham Lincoln, "if we cannot give freedom to every creature, let us do nothing that will impose slavery upon any other creature".

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# Appendix 1

## Table of Cases

### United Kingdom:

[2018] EWHC 2951 (Admin)

## Table of Legislation

### International:

*1926 Convention to Suppress the Slave Trade and Slavery*

*Convention Relating to the Status of Refugees*

*Council of Europe Convention on Action against Trafficking in Human Beings*

*European Convention on Human Rights*

*Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime*

*United Nations Convention concerning Forced or Compulsory Labour*

*United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air*

### European Union:

*Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*

*Directive and Council Framework Decision regulating Member States' national penal laws against human smuggling*

*Dublin Regulation*

*General Data Protection Regulation*

United Kingdom:

*Asylum and Immigration (Treatment of Claimants) Act 2004*

*Asylum and Immigration Act 1999*

*Care Act 2014*

*Coroners and Justice Act 2009*

*Crime and Security Act 2001*

*Housing Benefit (Habitual Residence) Amendment Regulations 2014*

*Human Rights Act 1998*

*Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015*

*Human Trafficking and Exploitation (Scotland) Act 2015*

*Immigration Act 2014*

*Immigration Act 2016*

*Modern Slavery (Victim Support) Bill [HL] 2017-19*

*Modern Slavery (Victim Support) Bill [HL] 2019-21*

*Modern Slavery Act 2015*

*Nationality, Immigration and Asylum Act 2002*

*Powers of the Criminal Courts (Sentencing) Act 2000*



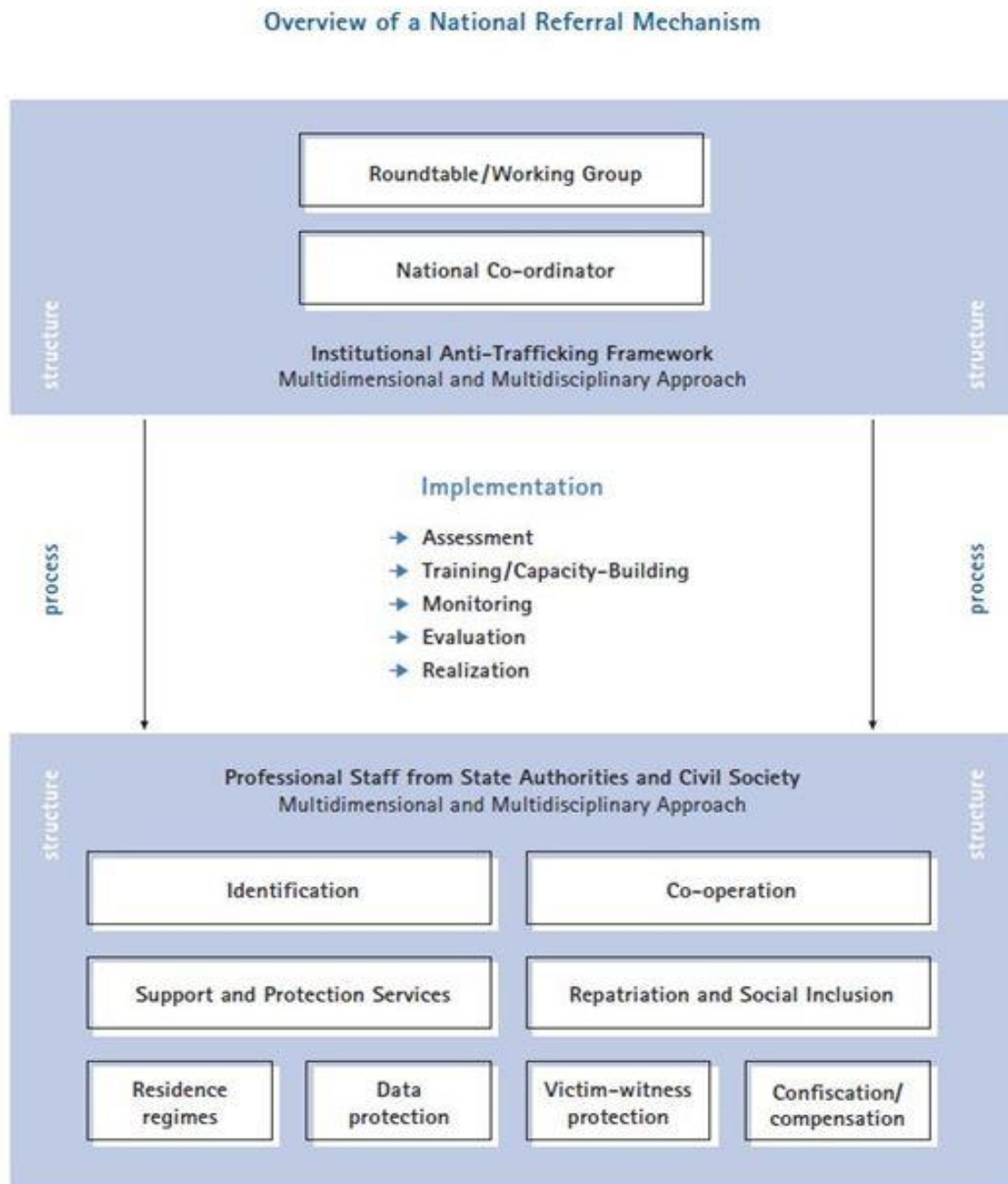
*Scotland Act 1998*

*Sexual Offences Act 2003*

*Youth Justice and Criminal Evidence Act 1999*

## Appendix 2

### Overview of the OSCE NRM (OSCE, 2004: 13)



## Appendix 3



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### Interview Guide for Victims

In this interview we will talk about your experiences of being in the UK. I know that you have been caught up in formal procedures and I hear that your experiences are both good and bad. I want to see how the UK Law works in relation to human trafficking and its victims.

- Pre-NRM and First responders

Let's begin by talking about the time before the NRM. What was happening during that specific time in your life? How did you end up in the UK?

How were you approached by the traffickers?

Did you know at the time what was going on and what was going to happen?

Who was the first person you came in contact with who tried to help you?

What was your first contact with [insert relevant first responder] like? How did that first contact make you feel?

What made you decide to accept their help?

- NRM process

So what happened after that (the referral)?

What accommodation were you given? Were you satisfied with the accommodation?

Did you get medical help/examinations? Are you satisfied with that help?

What about the counselling services/psychological help? How did you find these services? (Did they help you? Did you have any issues with them?)

What about your immigration status in Britain? Do you intend to stay here or go back to your country of origin? If yes, do you need a leave to remain? Do you find it easy to get it? Are you getting the necessary legal help/assistance to apply for one?

Looking at this whole process, how much time has it passed since you started receiving help? What stage are you in at the moment? When do you expect this process to finish with a final decision? Are there any delays? If yes, how do these delays affect you?

- Opinion/Suggestions

How do you feel after being found and treated by the NRM? How do you feel after going through the whole process?

Did the (NRM) process help you? (And if so, in what ways? And if not, why?)

What do you think of the NRM? (Positives/Negatives encountered)

What changes should be made to the process?

How do you picture your future? What are your plans and dreams?

## Appendix 4



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### Interview Guide for Practitioners

In this interview we will talk about your views on the NRM and the way the mechanism operates and also your experiences of working with human trafficking victims, who have gone through the NRM. The aim of this interview is to understand the different practitioners' opinions on the process of the NRM, assess how the mechanism works and suggest improvements:

- Position

Let's start by talking about your position/occupation in the whole process. What do you do exactly?(What does the interviewee personally do, what does the organisation/statutory service he works in do, where do they fit in the whole NRM process etc.)

Do you like it? How is a typical week in terms of the workload, how many cases do you deal with on a weekly basis?

Tell me about a case that went well and about a case that didn't go well or perhaps was particularly challenging. What happened? (Make them be self reflective) - Are these typical cases? (if yes why, if no why)

Do you come into contact with victims (organisation or even the interviewee personally)?

And if yes, at what stage of the NRM?

What are main characteristics of the people who are referred to/use the services of [insert name of relevant organisation]?

- Human Trafficking figures

There is an increase in the figures of human trafficking incidents/cases referred to the NRM? Why do you think this is the case? (Probe if interviewee believes it is a real increase of cases in the country or an increase in efforts against trafficking)

Why do we still have few prosecutions and even fewer convictions in Britain despite the increase in referrals of victims to the NRM? What are the key sticking points in the process?

- NRM issues

Looking at the NRM and generally speaking, are you happy with how the NRM is set up and operates?

What works well?

What are the main problems of the NRM?

Do you think it covers the needs of all victims? (Is the help provided individually tailored? If not, why is that? What do you think should be done to make it better tailored to victims? What about the gender of the victims? Is that taken into consideration during the first responders' stage and during the support stage and the decision process?)

What are your views on the **first responders**? Do they operate successfully? What about their identification skills and training they receive beforehand?

What about the first stages of a victim entering the NRM in general? Are they properly set up? How satisfied are you with them?

What's your opinion on the **help/services (medical, psychological, accommodation)** offered to victims by the NRM? (Issues such as help ending abruptly, quality of support provided etc.)

What about **accommodation** specifically? How easy is it for victims to get accommodation and how suitable is the accommodation for them?

What are your views on the recent decision to reduce the **subsistence allowance**? In ways, if at all, will this impact on victims of trafficking?

What about the **Leave to Remain**? What are your views on that? (Victims get one only if they have compelling personal circumstances (health issues) or if they have a compensation claim or are willing to cooperate with authorities. Does the interviewee

find it fair? Could a more secure immigration status help victims heal and integrate faster?)

What about those who say that, allowing victims of trafficking to remain in the UK, would make Britain a more “welcome destination” for traffickers?)

There have been many allegations about delays in the decision-making process. Do you believe that the process works fast or are these allegations true? What impact can these allegations have on the victims?

Why do you think there is such a gap in positive decisions between EU and non-EU victims? (4/5 UK/EU victims get a positive conclusive decision compared to half of the non-EU victims)

Do you think that it's easy for victims to claim compensation? Are the existing schemes enough and well-organised?

- NRM Reforms

Do you think that the Government's announcement of the planned reforms on the NRM will help? Are they enough? (e.g. 'move on' support at 45 days instead of 14, creation of governmentally funded 'places of safety' for 3-day advice and support before decision to be referred to the NRM, drop-in' services for all confirmed victims for up to 6 months after leaving support to aid the transition provided by The Salvation Army, work with local authorities to come up with best practice for victims to transition into a community and access local services, a single, expert unit which will be created in the Home Office to handle all cases referred from front line staff and to make decisions about whether somebody is a victim of modern slavery replacing the current case management units in the National Crime Agency and UK Visas and Immigration and will be separate from the immigration system, introduction of an independent panel of experts to review all negative decisions, new digital system to support the NRM process)

What about Scotland's decision to double the reflection and recovery period to 90 days? Do you think it will make a change/produce better results? If not, what else is needed?

- Opinion/Suggestions

What amount of freedom do you have in Scotland? How effective is the balance of responsibility and power between UK and Scotland on HT?

Taking into account what you said earlier about the characteristics of the cases you are dealing with now and have dealt in the past, the victims you have encountered and managed etc., to which extent are the policies well suited to addressing these realities? (Do you think that the NRM and the current policies have accurately captured the real image of the victim and the perpetrator? How true does the interviewee think are the images of the innocent trafficking victim and the evil perpetrator?)

To sum up how much does the NRM process help victims? And if so in what ways and if not, why?

Suggestions for improvements?



## Appendix 5



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### QUESTIONNAIRE ON THE NATIONAL REFERRAL MECHANISM

Thank you for agreeing to take part in this research on the National Referral Mechanism ('NRM'), the UK's response system to human trafficking and modern slavery. This short questionnaire will explore your views on the NRM and how the mechanism operates. It forms a part of a broader study, which will be based on interviews with human trafficking victims conducted by either Konstantinos Kosmas Gaitis (the 'Researcher') or the caseworker working the victim's case and interviews with practitioners/professionals involved in the field. The project's aim is to understand the strengths and weaknesses of the NRM, taking Scotland as a case study, with the goal of drawing lessons for the UK in general. I am undertaking this research for my PhD in Law (Criminology pathway) at the University of Edinburgh and the project is entitled "How is human trafficking regulated in the UK?". My supervisors are Professor Lesley McAra (University of Edinburgh) and Dr Steve Kirkwood (University of Edinburgh). This project has been approved by the School of Law Research Ethics and Integrity Committee at the University of Edinburgh.

#### What will happen

You will be asked to fill in a questionnaire regarding your experiences of and your views on the NRM and the way the mechanism operates. The questionnaire contains both closed and open-ended questions. In the closed-ended questions you just need to tick the box that corresponds to your answer by clicking on it with your mouse, while a space is provided to you in open-ended questions to give your answer in a few lines. In particular, you will be asked about:

- Your knowledge of and views on the level and quality of support that the NRM gives to human trafficking victims during all the stages of the process.

- Your personal views on the strengths and weaknesses of current policies regarding human trafficking.
- Your suggestions (if any) for improving the NRM.

In this questionnaire, you will *not* be asked to provide any information that could identify individual human trafficking victims or breach confidentiality agreements with people with whom you have worked.

### **Time Commitment**

The questionnaire will take approximately 30 minutes to complete.

### **Participants' Rights**

You may decide to stop being a part of the study at any time without explanation. You have the right to ask that any data you have supplied to that point be withdrawn or destroyed. You have the right to omit or refuse to answer or respond to any question that is asked of you without penalty. You have the right to have your questions about the procedures answered. If you have any questions as a result of reading this information sheet, you should e-mail the researcher before the study begins.

### **Confidentiality/Anonymity**

No one will link the data you provided to the identifying information you supplied (e.g., name, address, email). The data collected for this study will be presented within the main researcher's PhD thesis, and may be included anonymously in published articles and conference presentations. Individual participants will not be identifiable in any of these publications or presentations.

**For Further Information**

Professor Lesley McAra will be glad to answer your questions about this study at any time. Her contact details are:

E-mail: [mmcara@exseed.ed.ac.uk] - Tel: +44 (0)131 650 2036

If you want to find out about the final results of this study, you should e-mail Konstantinos-Kosmas Gaitis on [s1356435@ed.ac.uk].

## **QUESTIONNAIRE**

1. What is your job title?

2. In a few lines can you describe your role and how it relates to NRM processes?

3. National statistics show that there has been a major rise in NRM referrals in recent years. In a few lines can you please tell me why this rise has occurred?

4. Using the following scale, please give your opinion on how effective the NRM has been in its prescribed goals (victims' identification, data collection, help, accommodation and protection offered).

Very effective

☐

Fairly effective

☐

Not sure

☐

Fairly ineffective

☐

Very ineffective

☐

Please briefly explain your answer.

5. Using the following scale, please tell me to what extent you think the NRM deals with the needs of victims.

It covers the needs of all victims ☐

It covers the needs of most victims ☐

Not sure ☐

It covers the needs of few victims ☐

It does not cover the needs of any victims ☐

Please give reasons for your answer.

6. Using the following scale, in your view, how effective are first responders' at identifying potential victims of human trafficking?

Very effective

☐

Fairly effective

☐

Not sure

☐

Fairly ineffective

☐

Very ineffective

☐

Please explain your answer.

7. Briefly please give your views on whether or not the accommodations needs of the victims are met in the current system.

8. To what extent are the decisions of the Competent Authorities made within the prescribed timeframe?

Always

☐

Sometimes

☐

Never

☐

Unsure

☐

If you are aware of delays in the decision-making process, what do you think causes the delays?



9. Can you briefly sum up what do you believe are the advantages and disadvantages of the current arrangements of Leave to Remain for human trafficking victims?

10. On 26/10/2017 the Government announced some reforms on the NRM. What do you think that the effect of the NRM reforms is going to be?

11. What (if any) further improvements would you suggest to the NRM?

12. Can you please tell me if, how often and in what capacity you come into contact with victims?

13. What do you think is the effect of Scotland's decision to double the reflection and recovery period to 90 days? Do you think that there are other changes which need to be made in Scotland and if yes, what else needs to change?

14. How effective is the balance of responsibility and power between UK and Scotland on the issue of human trafficking?

15. What are the advantages and disadvantages of human trafficking policies and the way the NRM operates in Scotland compared to other parts of the UK?

16. And finally, apart from the questions asked, please comment on any other issues regarding the effectiveness of the NRM.

## Appendix 6



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### Research Ethics and Integrity: Approval form

TO BE COMPLETED BY ALL RESEARCHERS

1 DETAILS OF RESEARCH AND INVESTIGATOR/S	
Name and position	Konstantinos-Kosmas Gaitis, PhD candidate, School of Law, Criminology pathway
Title of research	How is human trafficking regulated in the UK? A critical assessment of the UK's response to trafficking based on victims' narratives and professionals' perspectives.
Proposed start date	11/09/2017 (start of PhD) – fall 2018 (start of interviews)
Duration of the project	3-4 years overall
Co-investigator/s (if any)	None
Project Summary (including details of methodology, not more than 150 words)	The National Referral Mechanism (UK's mechanism to identify and deal with human trafficking victims) has been criticised mainly by NGOs and scholars for a variety of reasons (e.g. lack of sufficient help and protection to victims). Most of this criticism is based on documents and data gathered from statutory services and even when interviews with victims are conducted, they are not given a central position. More focus is needed on the victims' point of view. Therefore, I aim to hear more about the NRM from interviews with victims and practitioners, understand the problems of it and examine

	the main criticisms levelled against it, assess the mechanism and suggest improvements. To achieve this, I will first need to present the legislation on human trafficking; find and understand the overarching images, notions and foundations and deconstruct dominant discourses in the UK policies; hear the actual trafficking experiences from the victims and compare them with the reality that the above documents have created. The research will be based on documentary analysis, narrative interviews with victims and semi-structured interviews with professionals.
<b>If you are a student, please provide the following additional information:</b>	
Email address	<a href="mailto:s1356435@ed.ac.uk">s1356435@ed.ac.uk</a>
Degree programme and year	PhD in Law (full-time, Criminology pathway), 2 <sup>nd</sup> year
Course to which this research relates	PhD in Law (full-time, Criminology pathway)
Name of supervisor	Professor Lesley McAra, Dr Steve Kirkwood
<b>2 FUNDING</b>	
Is funding being sought for this project?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES please give details.	
Does the project require approval of any other institution or ethics committee?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
If YES please give details.	
Adherence to any research protocols that the gatekeepers (NGOs, statutory services) might	

have and approval by them.	
<b>3 LEVEL OF APPROVAL SOUGHT</b>	
Does your project involve ANY research with human participants (e.g. interviews, observations, etc.?)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Does your project involve secondary data analysis which may have ethical implications in the use or presentation of data?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
To the best of your knowledge, could any institutional or personal conflicts of interest arise from this research?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>If you have answered YES to any of these questions please complete supplementary form A (Level Two Approval) and submit with this form.</b>	
Does your research concern individuals or groups which may be construed as terrorist or extremist?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>If you have answered YES to this question please complete supplementary form B (Prevent Duty) and submit with this form.</b>	
<b>4 CONFIRMATION</b>	
I confirm I have read the School of Law guidance on research ethics and integrity	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<b>Signed:</b>	
<b>Date:</b>	

## Research Ethics and Integrity

### Supplementary form A: Level Two Approval

School of Law

University of Edinburgh

1 DETAILS OF RESEARCH AND INVESTIGATOR/S	
Name and position	Konstantinos-Kosmas Gaitis, PhD candidate, School of Law, Criminology pathway
Title of research	How is human trafficking regulated in the UK? A critical assessment of the UK's response to trafficking based on victims' narratives and professionals' perspectives.
Proposed start date	11/09/2017 (start of PhD) – fall 2018 (start of interviews)
Duration of the project	3-4 years overall
Co-investigator/s (if any)	None
Project Summary (including details of methodology, not more than 150 words)	The National Referral Mechanism (UK's mechanism to identify and deal with human trafficking victims) has been criticised mainly by NGOs and scholars for a variety of reasons (e.g. lack of sufficient help and protection to victims). Most of this criticism is based on documents and data gathered from statutory services and even when interviews with victims are conducted, they are not given a central position. More focus is needed on the victims' point of view. Therefore, I aim to hear more about the NRM from interviews with victims and practitioners, understand the



	problems of it and examine the main criticisms levelled against it, assess the mechanism and suggest improvements. To achieve this, I will first need to present the legislation on human trafficking; find and understand the overarching images, notions and foundations and deconstruct dominant discourses in the UK policies; hear the actual trafficking experiences from the victims and compare them with the reality that the above documents have created. The research will be based on documentary analysis, narrative interviews with victims and semi-structured interviews with professionals.
I confirm I have read the School of Law guidance on research ethics and integrity	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<b>If you are a student, please provide the following additional information:</b>	
Email address	<a href="mailto:s1356435@ed.ac.uk">s1356435@ed.ac.uk</a>
Degree programme and year	PhD in Law (full-time, Criminology pathway), 2 <sup>nd</sup> year
Course to which this research relates	PhD (full-time, Criminology pathway)
Name of supervisor	Professor Lesley McAra, Dr Steve Kirkwood
<b>2 RESEARCH PARTICIPANTS</b>	
Does the research involve participants specifically recruited for this research project?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

How many participants will be involved in the study?	Aiming to 20-30 interviewees including victims of trafficking and key stakeholders and practitioners/professionals involved in the field.
What criteria will be used in deciding on inclusion/exclusion of participants?	Purposive sampling. Recruit participants that are relevant to my research questions. However, due to difficulties in finding victims of trafficking and speaking to them, it can also be a convenience sample, meaning that I might end up interviewing fewer victims than my initial target and with a smaller variation in demographics (e.g. only able to interview female victims due to difficulties in accessing male trafficking victims).
How will the sample be recruited?	Use of gatekeepers from NGOs and statutory services to get in contact with stakeholders/professionals involved in UK's fight against human trafficking and with victims of trafficking that they are in touch with. The NGOs and the services will ask the victims if they are willing to be interviewed and if they are, then they will be recruited for my project.
Are any of the participants/ data subjects likely to be:	
<ul style="list-style-type: none"> <li>Under 16 years of age</li> </ul>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Children in the care of a Local Authority</li> </ul>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Known to have additional support needs</li> </ul>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

<ul style="list-style-type: none"> <li>Physically or mentally ill</li> </ul>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<ul style="list-style-type: none"> <li>Vulnerable in other ways (e.g. in some form of compulsory detention or surveillance)</li> </ul>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<ul style="list-style-type: none"> <li>Unlikely to be proficient in English</li> </ul>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<ul style="list-style-type: none"> <li>In a client or professional relationship with the researchers</li> </ul>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>In a student/teacher relationship with the researchers</li> </ul>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>In any other dependent relationship with the researchers</li> </ul>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Have difficulty in reading and/or comprehending any printed material distributed as part of the study</li> </ul>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Will participants receive any financial or other material benefits because of participation?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES what benefits will be offered to participants and why?	
<b>3 POTENTIAL RISKS TO PARTICIPANTS/ DATA SUBJECTS</b>	
Could the research induce any psychological stress or discomfort in	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

participants?	
If YES, what measures will be taken to address this?	<p>Use of informed consent form with an information sheet. Fully explain research and aims to participants. They will have the right to withdraw at any stage or even withdraw their statements after the interviews have finished. The interviews with victims will take place in the NGOs offices, meaning that they will be held in a supportive context/environment for victims, which will minimise the risk for participants and where there is going to be special support in place by the NGOs. I will also give participants a booklet with sources of help (e.g. Samaritans, Victim Support) to use in case of stress or discomfort. In the highly unlikely case that I interview a victim outside an NGO facility, I will have the number of the NGO that supported the victim on hand, which I could call if there was some kind of crisis or acute support that was needed for the victim. However, I want to emphasise that the probability of interviewing a victim outside the NGO facilities is highly unlikely.</p> <p>After consulting with some of the NGOs regarding what protocols would be in store if an interviewed victim gets distressed during the interview, please note the following. The NGO would brief me in before the actual interview takes place. I would first meet with the caseworker of the victim that I would interview and the victim would also meet with the caseworker and discuss about the interview before it takes place. All parties would agree beforehand for this interview to take place, after of course issues such as informed consent, withdrawal from</p>

the interview at any stage etc. would be clarified to the victim by the caseworker. The caseworker might need to be present in the room during the interview or at least immediately outside to intervene if needed. In the first case, there is an ethical issue, as the victim might be limited to express himself/herself freely or even speak out against the NRM or the NGO due to the caseworker's presence. After the interview, there would be a debriefing process run by the NGO for both the interviewee and the interviewer (me). If an interview with the victim is not possible then we could arrange to have the interview by proxy, meaning that I, the interviewer, will hand in my interview guide to the caseworker and he/she can ask the questions to the victim. This can also lead to limitations in my research results. I can also meet the caseworking team and discuss the victim's case with them, whilst a copy of the written witness statement or a written summary where the trafficking experience is described can also be given to me.

As regards my training in dealing with interviews and more particularly interviews with vulnerable individuals, I have undertaken 2 methodological courses for my MSc in Criminology and Criminal Justice. More specifically, I have taken Research Skills in the Social Sciences: Data Collection at the SSPS and Criminological Research Methods at the School of Law. Therefore, I have been taught and, as a result, possess the basic skills to conduct sociological/criminological empirical research using various methods (e.g. documents, interviews, focus

	<p>groups etc.). Moreover, for the Criminological Research Methods course I conducted an empirical research on the use of force by Police Scotland, for which I interviewed police officers and a police trainer of the Scottish Police. In addition, I am doing extensive reading on literature regarding interviewing vulnerable people, making use of electronic resources and tools for support (e.g. CRFR), whilst finally there is a training element on my supervision as well, since I have 2 supervisors with extensive knowledge and experience in conducting qualitative interviews in general, but also interviews with vulnerable people specifically. It is worth noting that my 2<sup>nd</sup> supervisor, Dr Kirkwood has a long history of working with vulnerable people (refugees and asylum seekers) and has a great deal of experience in interviews with them.</p>
<p>Could the research lead to disclosure or observation of illegal behaviours or activities?</p>	<p>YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p>
<p>If YES, what procedures will be followed?</p>	<p>Anonymity of participants so that they are not recognisable. Confidentiality of data and storage in a University of Edinburgh server locked with password and accessible only by the researcher. Confidentiality is guaranteed except under circumstances in which information comes to light which indicates that the interviewee or someone else (including a child) is at serious risk of harm. The likely disclosure would be to the NGO/service through whose auspices I am undertaking the fieldwork. All interviewees, however, need to</p>

	understand the limitations of confidentiality before the interview commences, so this is going to form part of the consent form.
Is there any purpose to which the research findings could be put that could adversely affect participants/ data subjects?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES, what steps will be taken to protect them?	
Will the true purpose of the research be concealed from participants/ data subjects?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES, what will be concealed and why?	
If using secondary data, is the reuse of data compatible with what subjects were originally told about the use of their data? (e.g., were they told it would be destroyed at the end of the original study?)	YES <input type="checkbox"/> NO <input type="checkbox"/> <u>Not applicable</u>
If NO please explain. Is further consent required?	
If using secondary data, is it likely that people or places could be identified from the data?	YES <input type="checkbox"/> NO <input type="checkbox"/> <u>Not applicable</u>
If YES, are further measures necessary to protect data subjects?	

Could this research adversely affect participants/ data subjects in any other way?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES outline the risks. What steps will be taken to protect them?	
<b>4 POTENTIAL RISKS TO RESEARCHERS</b>	
At any stage in the research could researchers' safety be compromised? (e.g. will it involve travel to high risk areas, dangerous activities, or risky individuals or groups?)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>  The interviews with victims will take place in the NGOs offices, meaning that they will be held in a supportive context/environment for victims, which will minimise the risk for the interviewer.
If YES, what procedures have been put in place to deal with potential problems?	
To the best of your knowledge, could any institutional or personal conflicts of interest arise from this research?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES please explain.	
Do any of those named above need training to enable them to properly conduct the proposed research safely and in accordance with ethical principles?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES what training is needed?	
Does the research require a risk assessment evaluation (e.g. if your safety may be compromised, or if your travel or	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>



<p>other insurance requires it)?</p> <p><i>IF YES please contact the RKO Manager and locate relevant form on the University Health and Safety website:</i></p> <p><a href="https://www.ed.ac.uk/health-safety/online-resources">https://www.ed.ac.uk/health-safety/online-resources</a>.</p>	
<p>Do the researchers named above need to be cleared through the Disclosure/Enhanced Disclosure procedures?</p> <p><i>IF YES please contact the RKO Manager.</i></p>	<p>YES <input type="checkbox"/>      NO <input type="checkbox"/></p> <p><u>I may have to get disclosure, but will depend on agency protocols</u></p>
<p><b>5      INFORMATION AND CONSENT</b></p>	
<p>What information will be provided to participants prior to their consent? (e.g. information leaflet, briefing session)</p>	<p>Oral briefing session and handing over information sheets where aims, objectives and the general nature of research will be fully explained to the participants. I will also make sure that the participants (especially the non-English speakers) will understand the exact purpose of research. Use of consent form to obtain written consent with right to withdraw at any stage and for any reasons. Also, I will make sure that consent is freely given, to the extent that participants don't feel any pressure to take part by ensuring them that there will be no consequences for them in terms of the processes, which they are caught up in, by either their participation or decision not to take part in the study.</p> <p>Translators and participants will need to consent for</p>

	the translators to be there and the former will need to sign a complete confidentiality form in front of the participants regarding the fact that the translators cannot disclose anything they will hear in the interview. The translators will be fully briefed regarding the dimension of the research prior to the interviews and it will be made clear to them that I will deal with any disclosure issues.
Can you confirm that participants will be informed of their right to withdraw from the study at any time and for any or no reason at all?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
If NO, please explain	
Will it be necessary for participants to take part in the study without their knowledge and consent?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If YES, please explain	
Will written consent be obtained from all participants/ data subjects?  If NO, explain why.	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
If research involves participants from any of the vulnerable groups listed in section 2, what arrangements will be made to ensure informed consent?	I will use a translator who will orally translate the consent form to them or even produce in writing a special form written in the participants' language. Special care will be taken for participants with literacy issues. In this case having a translator reading out the form would be more suitable. Only interview people who have the capacity to give informed consent to be interviewed.

6 DATA PROTECTION	
Will any part of the research involve audio, film or video recording of individuals?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
If YES, please describe	Audio recording of participants with use of recorder. However, participants have the right to deny being recorded or withdraw from interview at any time, even after interview is over.
How will the confidentiality of data, including the identity of participants, be ensured?	Storage in a locked University of Edinburgh server, password protected, accessible only by researcher.
Who will have access to the data? (e.g. researcher only, members of research team, supervisor)	Researcher only. Supervisors only through researcher.
How and where will the data be stored and in what format?	In a locked University of Edinburgh server, password protected, accessible only by researcher. WMA or MP3.
What security arrangements have you put in place for the data?	Locked University of Edinburgh server, password protected, accessible only by researcher.
Please confirm that you will retain the data for the length of time required by the University's Data Management policies: <ul style="list-style-type: none"> <li>• For staff: 10 years after the end of the project</li> <li>• For students: for the duration of the project</li> </ul>	YES <input checked="" type="checkbox"/>
How will the data be disposed of when it is no longer required?	Deleted from computer. Any transcriptions will be shredded.

7 DATA USAGE	
How will the results of the research be used?	For PhD examination. They could also be used in potential conference presentations and journal publications.
What feedback of findings, if any, will be given to participants?	Possibly a dissemination of findings to gatekeepers (NGOs, statutory services).
Is any information likely to be passed on to external companies or organisations in the course of the research?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
If YES, please describe	To the gatekeepers (NGOs or statutory services) as part of disseminating the results to them.
Does your project require copyright for use of images, photography, audio or video services, or third party release?  <i>If YES, see generic legal agreements here</i>  <i>[link]</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
8 COLLABORATIVE WORKING	
Does your research involve collaboration with other academic/ non-academic partners, and/or employing others such as guides or translators?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
If YES:	

<p>i) what steps will be taken to ensure that all individuals adhere to UoE research ethics and integrity standards?</p>	<p>I might have to use translators for interviewees who do not speak English. Translators will preferably be language students from the University of Edinburgh, studying relevant languages to the ones the interviewees speak. Translators will be paid the national living wage. Assuming that I have 10 interviews with victims and that each interview takes at most 2 hours, with the real living wage currently at 8.75 pounds per hour, then the total amount of funds that will be needed for the payment of the translators will be 175 pounds. An application to the Law School is being prepared in order to request the said funds. If the NGO is happy to provide me with their translators then the same ethical issues will arise as having a caseworker of the NGO in the room with me and the interviewee during the interview. Therefore, the victim interviewed might find it harder to express himself/herself freely and possibly even speak out against the NRM or the NGO. As a result, using an NGO translator is not my first choice. In any case, a signed form from them will be needed to ensure that they will adhere to the ethics of the University.</p>
<p>ii) Please confirm the ownership of intellectual ideas and research outcomes, as well as the specific conditions in which these might be shared, will be agreed upon by all collaborators ( e.g. this might include agreement of authorship, recognition of other contributions, acknowledgement of sponsors.)</p>	<p>YES <b>X</b></p>

9 CONFIRMATION	
I confirm that I am aware that I can seek advice from the Research Ethics and Integrity Committee at any stage of the research.	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
I confirm that, should my research change so that the responses to these questions are no longer applicable, I will seek further ethical approval.	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<b>Signed:</b>	
<b>Date:</b>	

## Appendix 7



THE UNIVERSITY *of* EDINBURGH

### PARTICIPANT INFORMATION SHEET FOR PROFESSIONALS/PRACTITIONERS

#### Project Title

How is human trafficking regulated in the UK? A critical assessment of the UK's response to trafficking based on victims' narratives and professionals' perspectives.

#### Invitation

You are being asked to take part in a research study on the National Referral Mechanism ('NRM'), which is the UK's response system to human trafficking and modern slavery. The study will be based on interviews with human trafficking victims conducted by either Konstantinos Kosmas Gaitis (the 'Researcher') or the caseworker working the victim's case and interviews with practitioners/professionals involved in the field and it aims to understand the strengths and weaknesses of the NRM, taking Scotland as a case study, with the goal of drawing lessons for the UK in general. I am undertaking this research for my PhD in Law (Criminology pathway) at the University of Edinburgh. My supervisors are Professor Lesley McAra (University of Edinburgh) and Dr Steve Kirkwood (University of Edinburgh). This project has been approved by the School of Law Research Ethics and Integrity Committee at the University of Edinburgh.

#### What will happen

In this study, you will be asked to take part in an interview regarding your experiences of and your views on the NRM and the way the mechanism operates and also your experiences of

working with human trafficking victims, who have gone through the NRM. In particular, you will be asked about:

- How you came to be involved in work with human trafficking victims.
- Your experiences of coming in contact and working in the field with human trafficking victims.
- Your knowledge of and views on the level and quality of support that the NRM gives to human trafficking victims during all the stages of the process and your opinion on the way the mechanism operates and on the allegations expressed against it.
- Your views on how the NRM and the current policies perceive victims and what images they construct/promote regarding human trafficking and victims.
- Your suggestions for improving the NRM.

In the interview, you will *not* be asked to provide any information that could identify individual human trafficking victims or breach confidentiality agreements with people with whom you have worked.

### **Time Commitment**

The interview will take approximately 30-60 minutes, depending on how much you wish to say.

### **Participants' Rights**

This interview will be audio recorded. You may decide to stop being a part of the research study at any time without explanation. You have the right to refuse being audio recorded or ask that the recording stops at any time. You have the right to ask that any data you have supplied to that point be withdrawn or destroyed. You have the right to omit or refuse to answer or respond to any question that is asked of you without penalty. You have the right to have your questions about the procedures answered (unless answering these questions would interfere with the study's outcome). If you have any questions as a result of reading this information sheet, you should ask the researcher before the study begins.



**Confidentiality/Anonymity**

No one will link the data you provided to the identifying information you supplied (e.g., name, address, email). The data collected for this study will be presented within the main researcher's PhD thesis, and may be included anonymously in published articles and conference presentations. Individual participants will not be identifiable in any of these publications or presentations.

**For Further Information**

Professor Lesley McAra will be glad to answer your questions about this study at any time. Her contact details are:

E-mail: [mmcara@exseed.ed.ac.uk]

Tel: +44 (0)131 650 2036

If you want to find out about the final results of this study, you should provide contact details to the interviewer or e-mail Konstantinos-Kosmas Gaitis on [s1356435@ed.ac.uk].

## Appendix 8



THE UNIVERSITY *of* EDINBURGH

### INFORMED CONSENT FORM

How is human trafficking regulated in the UK? A critical assessment of the UK's response to trafficking based on victims' narratives and professionals' perspectives.

#### Project Summary

You are being asked to take part in a research study on the National Referral Mechanism ('NRM'), which is the UK's response system to human trafficking and modern slavery. The study will be based on interviews with human trafficking victims conducted by either Konstantinos Kosmas Gaitis (the 'Researcher') or the caseworker working the victim's case and interviews with practitioners/professionals involved in the field and it aims to understand the strengths and weaknesses of the NRM, taking Scotland as a case study, with the goal of drawing lessons for the UK in general. I am undertaking this research for my PhD in Law (Criminology pathway) at the University of Edinburgh. My supervisors are Professor Lesley McAra (University of Edinburgh) and Dr Steve Kirkwood (University of Edinburgh). This project has been approved by the School of Law Research Ethics and Integrity Committee at the University of Edinburgh.

In this study, you will be asked to take part in an interview regarding your experiences of and your views on the NRM and the way the mechanism operates and also your experiences of working with human trafficking victims, who have gone through the NRM. In particular, you will be asked about:

- How you came to be involved in work with human trafficking victims.

- Your experiences of coming in contact and working in the field with human trafficking victims.
- Your knowledge of the level and quality of support that the NRM gives to human trafficking victims and your opinion on the way the mechanism operates and on the allegations expressed against it.
- Your views on how the NRM and the current policies perceive victims and what images they construct/promote regarding human trafficking and victims.
- Your suggestions for improving the NRM.

By signing below, you are agreeing that: (1) you have read and understood the Participant Information Sheet and that (2) questions about your participation in this study have been answered satisfactorily.

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Participant's Name (Printed)\*

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Participant's signature\*

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Date

---

Name of person obtaining consent (Printed)

---

Signature of person obtaining consent

*\*Participants wishing to preserve some degree of anonymity may use their initials.*

## Appendix 9



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### CONFIDENTIALITY AGREEMENT

Name:

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I am aware that, by being present, as a third party and in my capacity as assistant of the interviewee, in the interview held by Konstantinos Kosmas Gaitis (hereinafter 'Data Controller') in the city of Edinburgh on DD/MM/YYYY (hereinafter 'the interview'), which takes place for the Data Controller's PhD in Law research project entitled "How is human trafficking regulated in the UK? A critical assessment of the UK's response to trafficking based on victims' narratives and professionals' perspectives" undertaken at the School of Law of the University of Edinburgh, I will come in contact with confidential information, as expressed by the interviewee in the interview. In consideration of my aforementioned engagement, I agree to comply by this Confidentiality Agreement. Therefore, I agree:

- To only act on the instructions of the Data Controller, as the controller of personal information and always in accordance with the University of Edinburgh research ethics and integrity standards; and
- To treat as strictly confidential, all information which may be derived from or be obtained in the course of my presence during this interview and not use, assist others to use, or disclose to anyone any information and any secret or confidential matter, leaving all disclosure issues to be treated by the Data Controller; and
- To provide all necessary precautions to ensure that all such information is treated as confidential; and
- To not derive any personal profit or advantage from any confidential information that I may acquire during my presence in this interview; and

- To take appropriate measures to ensure the security of the data being processed; and
- That confidential data includes all personal information (e.g., name, birth date, views expressed or events narrated etc.) which may, in any manner, identify the interviewee.
- That confidential data may be used only for purposes directly related to the PhD project of the Data Controller.
- That any personal use of confidential data is strictly prohibited.

I certify that I have read and understood the foregoing Agreement.

---

Signature

---

Date

## Appendix 10



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### INTERVIEWER CONFIDENTIALITY AGREEMENT

Name of interviewer: \_\_\_\_\_

I am aware that, in the course of my assignment as an interviewer (hereinafter “the assignment”) for the interviews held by Konstantinos-Kosmas Gaitis (hereinafter “Data Controller”), for his PhD in Law research project entitled “How is human trafficking regulated in the UK? A critical assessment of the UK’s response to trafficking based on victims’ narratives, professionals’ perspectives and policy documents’ analysis” at the School of Law of the University of Edinburgh, I may have access to the interviewees’ health, financial, legal and other personal and confidential information. In consideration of my engagement as an interviewer and as a processor of data, I agree to comply by this Confidentiality Agreement. Therefore, I agree:

- To only act on the instructions of the Data Controller, as the controller of personal information and always in accordance with the University of Edinburgh research ethics and integrity standards; and
- To treat as strictly confidential, all information which may be derived from or be obtained in the course of my assignment and not use, assist others to use, or disclose to anyone any information and any secret or confidential matter, leaving all disclosure issues to be treated by the Data Controller; and
- To provide all necessary precautions to ensure that all such information is treated as confidential; and
- That documents remain the property of the owner of the original documents and/or the requester of my services at all times; and
- To not derive any personal profit or advantage from any confidential information that I may acquire during the services assigned to me by the Data Controller; and

- That at the time I terminate my relationship with the Data Controller, for any reason, I will deliver to him/her all documents related to the assignment and to the confidential information referred to above, and I will not retain any such information for myself, including any and all means from which the information can be recovered or reproduced in any form; and
- To take appropriate measures to ensure the security of the data being processed; and
- To assist the Data Controller in providing subjects access and allowing data subjects to exercise their rights; and
- To delete or return all personal data to the controller, as requested, at the end of my assignment as interviewer; and
- That confidential data includes all personal information (e.g., name, birth date, country of origin etc.) which may, in any manner, identify the individual.
- That confidential data may be used only for purposes directly related to the PhD project of the Data Controller.
- That any personal use of confidential data is strictly prohibited.

I certify that I have read and understood the foregoing Agreement.

---

Interviewer Signature

---

Date



## Appendix 11



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### INTERVIEWER BRIEFING

Thank you for helping out with this research. Below is a checklist of the things that need to be covered before the interview commences:

- ✓ Firstly, the interviewee has to be given the Participant Information Sheet to read. Please go through this sheet with them to ensure that they understand what the interview involves.
- ✓ Please make sure that the interviewee knows that the interview will be recorded.
- ✓ Then a further explanation has to be given to them regarding what this is all about. More specifically, this interview is part of a research on the National Referral Mechanism ('NRM'). The NRM is the UK's system to find, help, treat and deal with human trafficking and modern slavery victims. The goal is to better understand the NRM and get the victims' views on that. I believe that it would be better if the term 'NRM' was used only once, as this might confuse the interviewee. Just mention that the goal is to talk about the support given and the whole process they are caught up in.
- ✓ "I, the caseworker, am conducting the interview on behalf of Konstantinos Kosmas Gaitis, the researcher, who is undertaking this research as part of his PhD in Law."
- ✓ It **must** be made clear to the interviewee that participation in this interview is optional, so they should not feel obliged or overawed to take part in the research. They can freely decide to take part or not and there will be no consequences whatsoever regarding the procedures/processes they are caught up in or the services and help/support they are receiving. This is a research which takes place purely for academic reasons.
- ✓ The interviewee has the right to stop being a part of the research at any time without explanation. They have the right to ask that any data they have given to that point be deleted or destroyed. They have the right to omit or refuse to answer any question without penalty and the right to have their questions about the procedures answered (unless answering these questions would interfere with the study's outcome).

- ✓ Confidentiality and anonymity are guaranteed with the exceptions mentioned at the Participant Information Sheet. For security reasons, the interviewee and interviewer should use pseudonyms for themselves. Also, referral to anyone else should not be by name – if questions are on trafficking, then these individuals should be named as “the trafficker(s)” or named with the use of pseudonyms.
- ✓ If a translator is to be present during the interview, they should sign the Interpreter/Translator Confidentiality Agreement in front of the interviewee.
- ✓ After they have all the details needed and all their questions answered, they must be given the Consent Form (for interviews) to read and sign.
- ✓ What follows is the actual recorded interview. The interview guide contains all the main questions (including any possible probe/follow-up questions contained within parentheses), but the caseworker/interviewer is free to add his/her probing/follow-up questions, should they feel relevant to the course of the interview and the subject of the research.

How to finish the interview:

- ✓ Thank the interviewee for agreeing to be interviewed.
- ✓ Repeat that their details and information will remain anonymous and confidential with the exceptions mentioned at the Participant Information Sheet and that this interview will have no bearing on the processes they are caught up in.

## Appendix 12



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### PARTICIPANT INFORMATION SHEET

#### **Project Title**

How is human trafficking regulated in the UK? A critical assessment of the UK's response to trafficking based on survivors' narratives, professionals' perspectives and policy documents' analysis.

#### **Invitation**

You are being asked to take part in a research on the National Referral Mechanism ('NRM'), as a human trafficking survivor. Konstantinos Kosmas Gaitis (hereinafter the "researcher"), PhD candidate at the School of Law of the University of Edinburgh, is leading this research. Before you decide to take part it is important that you understand why the research is being conducted and what it will involve. Please take time to read the following information carefully.

#### **What is the purpose of the study?**

The NRM is the UK's system to find, help, treat and deal with human trafficking and modern slavery survivors. The study will be based on interviews with human trafficking survivors and practitioners/professionals involved in the field in the UK, as well as analysis of documents (UK policies and strategies). The goal is to understand your experience, your views on the NRM and what you think would improve current regulations. I, the researcher, am undertaking this research for my PhD in Law (Criminology pathway) at the University of Edinburgh. My supervisors are Professor Lesley McAra (University of Edinburgh) and Dr Steve Kirkwood

(University of Edinburgh) (hereinafter the “supervisors”). This project has been approved by the School of Law Research Ethics and Integrity Committee at the University of Edinburgh.

### **Why have I been invited to take part?**

You are invited to participate in this study because you have been through the NRM and we would like to hear the views of the people who have been through the Mechanism and have used its services.

### **What will happen in the interview?**

In this study, you will take part in an interview regarding your experiences of and your views on the NRM. In particular, you will be asked about:

- What was happening in your life before the NRM.
- How you were identified and referred to the NRM.
- Your personal experiences of the NRM and the support you have received.
- Your opinion on the NRM based on your personal experiences.
- Your suggestions for improving the NRM.

The interview will be private and confidential.

### **Time Commitment**

The interview will take approximately 30-60 minutes, depending on how much you wish to say.

### **Do I have to take part? Participants' Rights**

No – it is entirely up to you. If you do decide to take part, please keep this Participant Information Sheet and complete the Informed Consent Form to show that you understand your rights in relation to the research, and that you are happy to participate. If you do decide to take part, you may decide to stop being a part of the research at any time without explanation. You

have the right to ask from the researcher that any data you have given to that point be deleted or destroyed. You have the right to omit or refuse to answer any question. If you have any questions as a result of reading this information sheet, you should ask the researcher (or the interviewer, if another person instructed by the researcher is interviewing you) before the study begins.

### **Benefits and Risks**

Please note that participation or non-participation in this study will have no effect on the processes that you are involved in, on the support you receive from any organisations and it will not affect any claims you might have. There are no significant risks associated with participation. By sharing your experiences with us, you will be helping the researcher better understand the phenomenon of human trafficking, the NRM, how the Mechanism works, what are its problems and potentially help him suggest improvements.

### **Data Protection and Confidentiality**

Your data will be processed in accordance with Data Protection Law. All information collected about you will be kept strictly confidential and anonymised in our records with the use of an alias. Your data will only be viewed by the researcher and his supervisors. All electronic data will be stored on a password-protected computer file at the University of Edinburgh server.

No one will link the data you provided to your personal information (e.g., name, address, email). The data collected will be presented anonymously within the main researcher's PhD thesis, and may be included in published articles and conference presentations. Individual participants will not be identifiable in any of these publications or presentations.

Confidentiality is guaranteed unless information comes to light, which shows that the interviewee or someone else (including a child) is at serious risk of harm. This information will be given to the NGO/service through the help of which I am undertaking the fieldwork.

### **For Further Information**

Professor Lesley McAra will be glad to answer your questions about this study at any time. Her contact details are:

E-mail: [Lesley.McAra@ed.ac.uk]

Tel: +44 (0)131 650 2036

If you want to find out about the final results of this study, you should provide contact details to the interviewer or e-mail Konstantinos Kosmas Gaitis on [s1356435@ed.ac.uk].

For general information about how we use your data go to:

<https://www.ed.ac.uk/records-management/privacy-notice-research>

## Appendix 13



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### INFORMED CONSENT FORM

**Study Title:** How is human trafficking regulated in the UK? A critical assessment of the UK's response to trafficking based on victims' narratives, professionals' perspectives and policy documents' analysis.

Please initial box

1. I confirm that I have read and understood the Participant Information Sheet for the above study.

2. I have been given the opportunity to consider the information provided, ask questions and have had these questions answered to my satisfaction.

3. I understand that my participation is voluntary and that I can ask to withdraw at any time without giving a reason and without my medical care or legal rights being affected.

4. I understand that my anonymised data collected will be presented anonymously within the main researcher's PhD thesis, and may be included in published articles and conference presentations.

5. I agree to take part in this study.



Name of person giving consent

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Date

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Signature

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Name of person taking consent

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Date

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Signature

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